

(b) The free mailing privilege provided by subsection (a) of this section is extended to—

- (1) reading matter and musical scores;
- (2) sound reproductions;
- (3) paper, records, tapes, and other material for the production of reading matter, musical scores, or sound reproductions;
- (4) reproducers or parts thereof, for sound reproductions; and
- (5) braille writers, typewriters, educational or other materials or devices, or parts thereof, used for writing by, or specifically designed or adapted for use of, a blind person or a person having a physical impairment as described in subsection (a)(1) of this section.

(Pub. L. 91-375, Aug. 12, 1970, 84 Stat. 757.)

§ 3404. Unsealed letters sent by blind or physically handicapped persons

Unsealed letters sent by a blind person or a person having a physical impairment, as described in section 3403(a)(1) of this title, in raised characters or sightsaving type, or in the form of sound recordings, may be mailed free of postage.

(Pub. L. 91-375, Aug. 12, 1970, 84 Stat. 758.)

§ 3405. Markings

All matter relating to blind or other handicapped persons mailed under section 3403 or 3404 of this title, shall bear the words “Free Matter for the Blind or Handicapped”, or words to that effect specified by the Postal Service, in the upper right-hand corner of the address area.

(Pub. L. 91-375, Aug. 12, 1970, 84 Stat. 758.)

§ 3406. Balloting materials under the Uniformed and Overseas Citizens Absentee Voting Act

(a) Balloting materials under the Uniformed and Overseas Citizens Absentee Voting Act (individually or in bulk)—

- (1) shall be carried expeditiously and free of postage; and
- (2) may be mailed at a post office established outside the United States under section 406 of this title, unless such mailing is prohibited by treaty or other international agreement of the United States.

(b) As used in this section, the term “balloting materials” has the meaning given that term in section 107 of the Uniformed and Overseas Citizens Absentee Voting Act.

(Added Pub. L. 99-410, title II, §201(a), Aug. 28, 1986, 100 Stat. 928.)

REFERENCES IN TEXT

The Uniformed and Overseas Citizens Absentee Voting Act, referred to in text, is Pub. L. 99-410, Aug. 28, 1986, 100 Stat. 924, as amended, which is classified principally to subchapter I-G (§1973ff et seq.) of chapter 20 of Title 42, The Public Health and Welfare. Section 107 of that Act is classified to section 1973ff-6 of Title 42. For complete classification of this Act to the Code, see Short Title of 1986 Amendment note set out under section 1971 of Title 42 and Tables.

EFFECTIVE DATE

Section applicable with respect to elections taking place after Dec. 31, 1987, see section 204 of Pub. L.

99-410, set out as a note under section 1973ff of Title 42, The Public Health and Welfare.

CHAPTER 36—POSTAL RATES, CLASSES, AND SERVICES

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AMENDMENTS

2006—Pub. L. 109-435, title II, §206, Dec. 20, 2006, 120 Stat. 3217, added chapter heading and analysis and struck out former chapter heading “POSTAL RATES, CLASSES, AND SERVICES” and analysis consisting of items for subchapters I to V and items 3601 to 3604, 3621 to 3629, 3641 and 3642, 3661 to 3663, and 3681 to 3685.

1998—Pub. L. 105-277, div. A, §101(h) [title VI, §648(b)], Oct. 21, 1998, 112 Stat. 2681-480, 2681-528, added item 3663.

1993—Pub. L. 103-123, title VII, §704(a)(3)(B)(ii), Oct. 28, 1993, 107 Stat. 1270, substituted “free rates” for “free and reduced rates” in item 3627 and added item 3642.

Pub. L. 103-31, §8(h)(4), May 20, 1993, 107 Stat. 86, added item 3629.

¹ So in original. Does not conform to section catchline.

SUBCHAPTER I—PROVISIONS RELATING TO MARKET-DOMINANT PRODUCTS

PRIOR PROVISIONS

A prior subchapter I of this chapter consisted of sections 3601 to 3604, prior to amendment by Pub. L. 109-435, title VI, § 601(a)(2), (3), Dec. 20, 2006, 120 Stat. 3238, 3239, which struck out the subchapter heading “POSTAL RATE COMMISSION” and sections 3601 and 3602 and renumbered sections 3603 and 3604 as sections 503 and 504 of this title, respectively, and transferred those sections to chapter 5 of this title.

Section 3601, Pub. L. 91-375, Aug. 12, 1970, 84 Stat. 759; Pub. L. 94-421, § 3(a), Sept. 24, 1976, 90 Stat. 1304; Pub. L. 103-123, title VII, § 708(c), Oct. 28, 1993, 107 Stat. 1273, related to establishment of the Postal Rate Commission.

Section 3602, Pub. L. 91-375, Aug. 12, 1970, 84 Stat. 759, related to terms of office of the Commissioners of the Postal Rate Commission.

AMENDMENTS

2006—Pub. L. 109-435, title II, § 201(c), Dec. 20, 2006, 120 Stat. 3205, redesignated subchapter II of this chapter as this subchapter and substituted “PROVISIONS RELATING TO MARKET-DOMINANT PRODUCTS” for “PERMANENT RATES AND CLASSES OF MAIL” in subchapter heading.

§ 3621. Applicability; definitions

(a) **APPLICABILITY.**—This subchapter shall apply with respect to—

- (1) first-class mail letters and sealed parcels;
- (2) first-class mail cards;
- (3) periodicals;
- (4) standard mail;
- (5) single-piece parcel post;
- (6) media mail;
- (7) bound printed matter;
- (8) library mail;
- (9) special services; and
- (10) single-piece international mail,

subject to any changes the Postal Regulatory Commission may make under section 3642.

(b) **RULE OF CONSTRUCTION.**—Mail matter referred to in subsection (a) shall, for purposes of this subchapter, be considered to have the meaning given to such mail matter under the mail classification schedule.

(Added Pub. L. 109-435, title II, § 201(a), Dec. 20, 2006, 120 Stat. 3200.)

PRIOR PROVISIONS

A prior section 3621, Pub. L. 91-375, Aug. 12, 1970, 84 Stat. 760, authorized the Governors to fix rates and classes, prior to repeal by Pub. L. 109-435, title II, § 201(a), Dec. 20, 2006, 120 Stat. 3200.

RATEMAKING LIMITATIONS

Pub. L. 103-123, title VII, § 704(b)(2), Oct. 28, 1993, 107 Stat. 1270, provided that:

“(A) **IN GENERAL.**—Except as provided in subparagraph (B), rates of postage may not be established, under subchapter II [now I] of chapter 36 of title 39, United States Code, in a manner designed to allow the United States Postal Service to receive through revenues any portion of the additional revenues (referred to in section 2401(d) of such title, as amended by paragraph (1)(E)) for which amounts are authorized to be appropriated under such section 2401(d).

“(B) **EXCEPTION.**—If Congress fails to appropriate an amount authorized under section 2401(d) of title 39, United States Code (as amended by paragraph (1)(E)), rates for the various classes of mail may be adjusted in accordance with the provisions of subchapter II [now I]

of chapter 36 of such title (excluding section 3627 thereof) such that the resulting increase in revenues will equal the amount that Congress so failed to appropriate.”

§ 3622. Modern rate regulation

(a) **AUTHORITY GENERALLY.**—The Postal Regulatory Commission shall, within 18 months after the date of enactment of this section, by regulation establish (and may from time to time thereafter by regulation revise) a modern system for regulating rates and classes for market-dominant products.

(b) **OBJECTIVES.**—Such system shall be designed to achieve the following objectives, each of which shall be applied in conjunction with the others:

(1) To maximize incentives to reduce costs and increase efficiency.

(2) To create predictability and stability in rates.

(3) To maintain high quality service standards established under section 3691.

(4) To allow the Postal Service pricing flexibility.

(5) To assure adequate revenues, including retained earnings, to maintain financial stability.

(6) To reduce the administrative burden and increase the transparency of the ratemaking process.

(7) To enhance mail security and deter terrorism.

(8) To establish and maintain a just and reasonable schedule for rates and classifications, however the objective under this paragraph shall not be construed to prohibit the Postal Service from making changes of unequal magnitude within, between, or among classes of mail.

(9) To allocate the total institutional costs of the Postal Service appropriately between market-dominant and competitive products.

(c) **FACTORS.**—In establishing or revising such system, the Postal Regulatory Commission shall take into account—

(1) the value of the mail service actually provided each class or type of mail service to both the sender and the recipient, including but not limited to the collection, mode of transportation, and priority of delivery;

(2) the requirement that each class of mail or type of mail service bear the direct and indirect postal costs attributable to each class or type of mail service through reliably identified causal relationships plus that portion of all other costs of the Postal Service reasonably assignable to such class or type;

(3) the effect of rate increases upon the general public, business mail users, and enterprises in the private sector of the economy engaged in the delivery of mail matter other than letters;

(4) the available alternative means of sending and receiving letters and other mail matter at reasonable costs;

(5) the degree of preparation of mail for delivery into the postal system performed by the mailer and its effect upon reducing costs to the Postal Service;

(6) simplicity of structure for the entire schedule and simple, identifiable relationships

between the rates or fees charged the various classes of mail for postal services;

(7) the importance of pricing flexibility to encourage increased mail volume and operational efficiency;

(8) the relative value to the people of the kinds of mail matter entered into the postal system and the desirability and justification for special classifications and services of mail;

(9) the importance of providing classifications with extremely high degrees of reliability and speed of delivery and of providing those that do not require high degrees of reliability and speed of delivery;

(10) the desirability of special classifications for both postal users and the Postal Service in accordance with the policies of this title, including agreements between the Postal Service and postal users, when available on public and reasonable terms to similarly situated mailers, that—

(A) either—

(i) improve the net financial position of the Postal Service through reducing Postal Service costs or increasing the overall contribution to the institutional costs of the Postal Service; or

(ii) enhance the performance of mail preparation, processing, transportation, or other functions; and

(B) do not cause unreasonable harm to the marketplace.

(11) the educational, cultural, scientific, and informational value to the recipient of mail matter;

(12) the need for the Postal Service to increase its efficiency and reduce its costs, including infrastructure costs, to help maintain high quality, affordable postal services;

(13) the value to the Postal Service and postal users of promoting intelligent mail and of secure, sender-identified mail; and

(14) the policies of this title as well as such other factors as the Commission determines appropriate.

(d) REQUIREMENTS.—

(1) IN GENERAL.—The system for regulating rates and classes for market-dominant products shall—

(A) include an annual limitation on the percentage changes in rates to be set by the Postal Regulatory Commission that will be equal to the change in the Consumer Price Index for All Urban Consumers unadjusted for seasonal variation over the most recent available 12-month period preceding the date the Postal Service files notice of its intention to increase rates;

(B) establish a schedule whereby rates, when necessary and appropriate, would change at regular intervals by predictable amounts;

(C) not later than 45 days before the implementation of any adjustment in rates under this section, including adjustments made under subsection (c)(10)—

(i) require the Postal Service to provide public notice of the adjustment;

(ii) provide an opportunity for review by the Postal Regulatory Commission;

(iii) provide for the Postal Regulatory Commission to notify the Postal Service of any noncompliance of the adjustment with the limitation under subparagraph (A); and

(iv) require the Postal Service to respond to the notice provided under clause (iii) and describe the actions to be taken to comply with the limitation under subparagraph (A);

(D) establish procedures whereby the Postal Service may adjust rates not in excess of the annual limitations under subparagraph (A); and

(E) notwithstanding any limitation set under subparagraphs (A) and (C), and provided there is not sufficient unused rate authority under paragraph (2)(C), establish procedures whereby rates may be adjusted on an expedited basis due to either extraordinary or exceptional circumstances, provided that the Commission determines, after notice and opportunity for a public hearing and comment, and within 90 days after any request by the Postal Service, that such adjustment is reasonable and equitable and necessary to enable the Postal Service, under best practices of honest, efficient, and economical management, to maintain and continue the development of postal services of the kind and quality adapted to the needs of the United States.

(2) LIMITATIONS.—

(A) CLASSES OF MAIL.—Except as provided under subparagraph (C), the annual limitations under paragraph (1)(A) shall apply to a class of mail, as defined in the Domestic Mail Classification Schedule as in effect on the date of enactment of the Postal Accountability and Enhancement Act.

(B) ROUNDING OF RATES AND FEES.—Nothing in this subsection shall preclude the Postal Service from rounding rates and fees to the nearest whole integer, if the effect of such rounding does not cause the overall rate increase for any class to exceed the Consumer Price Index for All Urban Consumers.

(C) USE OF UNUSED RATE AUTHORITY.—

(i) DEFINITION.—In this subparagraph, the term “unused rate adjustment authority” means the difference between—

(I) the maximum amount of a rate adjustment that the Postal Service is authorized to make in any year subject to the annual limitation under paragraph (1); and

(II) the amount of the rate adjustment the Postal Service actually makes in that year.

(ii) AUTHORITY.—Subject to clause (iii), the Postal Service may use any unused rate adjustment authority for any of the 5 years following the year such authority occurred.

(iii) LIMITATIONS.—In exercising the authority under clause (ii) in any year, the Postal Service—

(I) may use unused rate adjustment authority from more than 1 year;

(II) may use any part of the unused rate adjustment authority from any year;

(III) shall use the unused rate adjustment authority from the earliest year such authority first occurred and then each following year; and

(IV) for any class or service, may not exceed the annual limitation under paragraph (1) by more than 2 percentage points.

(3) REVIEW.—Ten years after the date of enactment of the Postal Accountability and Enhancement Act and as appropriate thereafter, the Commission shall review the system for regulating rates and classes for market-dominant products established under this section to determine if the system is achieving the objectives in subsection (b), taking into account the factors in subsection (c). If the Commission determines, after notice and opportunity for public comment, that the system is not achieving the objectives in subsection (b), taking into account the factors in subsection (c), the Commission may, by regulation, make such modification or adopt such alternative system for regulating rates and classes for market-dominant products as necessary to achieve the objectives.

(e) WORKSHARE DISCOUNTS.—

(1) DEFINITION.—In this subsection, the term “workshare discount” refers to rate discounts provided to mailers for the presorting, prebarcoding, handling, or transportation of mail, as further defined by the Postal Regulatory Commission under subsection (a).

(2) SCOPE.—The Postal Regulatory Commission shall ensure that such discounts do not exceed the cost that the Postal Service avoids as a result of workshare activity, unless—

(A) the discount is—

(i) associated with a new postal service, a change to an existing postal service, or with a new work share initiative related to an existing postal service; and

(ii) necessary to induce mailer behavior that furthers the economically efficient operation of the Postal Service and the portion of the discount in excess of the cost that the Postal Service avoids as a result of the workshare activity will be phased out over a limited period of time;

(B) the amount of the discount above costs avoided—

(i) is necessary to mitigate rate shock; and

(ii) will be phased out over time;

(C) the discount is provided in connection with subclasses of mail consisting exclusively of mail matter of educational, cultural, scientific, or informational value; or

(D) reduction or elimination of the discount would impede the efficient operation of the Postal Service.

(3) LIMITATION.—Nothing in this subsection shall require that a work share discount be reduced or eliminated if the reduction or elimination of the discount would—

(A) lead to a loss of volume in the affected category or subclass of mail and reduce the aggregate contribution to the institutional costs of the Postal Service from the cat-

egory or subclass subject to the discount below what it otherwise would have been if the discount had not been reduced or eliminated; or

(B) result in a further increase in the rates paid by mailers not able to take advantage of the discount.

(4) REPORT.—Whenever the Postal Service establishes a workshare discount rate, the Postal Service shall, at the time it publishes the workshare discount rate, submit to the Postal Regulatory Commission a detailed report that—

(A) explains the Postal Service’s reasons for establishing the rate;

(B) sets forth the data, economic analyses, and other information relied on by the Postal Service to justify the rate; and

(C) certifies that the discount will not adversely affect rates or services provided to users of postal services who do not take advantage of the discount rate.

(f) TRANSITION RULE.—For the 1-year period beginning on the date of enactment of this section, rates and classes for market-dominant products shall remain subject to modification in accordance with the provisions of this chapter and section 407, as such provisions were last in effect before the date of enactment of this section. Proceedings initiated to consider a request for a recommended decision filed by the Postal Service during that 1-year period shall be completed in accordance with subchapter II of chapter 36 of this title and implementing regulations, as in effect before the date of enactment of this section.

(Added Pub. L. 109-435, title II, §201(a), Dec. 20, 2006, 120 Stat. 3201.)

REFERENCES IN TEXT

The date of enactment of this section and the date of enactment of the Postal Accountability and Enhancement Act, referred to in subsecs. (a), (d)(2)(A), (3), and (f), are the date of enactment of Pub. L. 109-435, which was approved Dec. 20, 2006.

PRIOR PROVISIONS

A prior section 3622, Pub. L. 91-375, Aug. 12, 1970, 84 Stat. 760; Pub. L. 94-421, §10, Sept. 24, 1976, 90 Stat. 1311; Pub. L. 105-241, §5, Sept. 28, 1998, 112 Stat. 1573; Pub. L. 106-384, §1(a), Oct. 27, 2000, 114 Stat. 1460, related to rates and fees, prior to repeal by Pub. L. 109-435, title II, §201(a), Dec. 20, 2006, 120 Stat. 3200.

[§§ 3623 to 3625. Repealed. Pub. L. 109-435, title II, § 201(b), Dec. 20, 2006, 120 Stat. 3205]

Section 3623, Pub. L. 91-375, Aug. 12, 1970, 84 Stat. 761; Pub. L. 94-421, §8, Sept. 24, 1976, 90 Stat. 1310, related to mail classification.

Section 3624, Pub. L. 91-375, Aug. 12, 1970, 84 Stat. 761; Pub. L. 94-421, §5(a), Sept. 24, 1976, 90 Stat. 1306, related to recommended decisions of the Postal Rate Commission.

Section 3625, Pub. L. 91-375, Aug. 12, 1970, 84 Stat. 762; Pub. L. 103-123, title VII, §708(d), Oct. 28, 1993, 107 Stat. 1273, related to action of the Board of Governors of the Postal Service.

§ 3626. Reduced rates

(a)(1) Except as otherwise provided in this section, rates of postage for a class of mail or kind

of mailer under former section 4358, 4452(b), 4452(c), 4554(b), or 4554(c) of this title shall be established in accordance with section 3622.

(2) For the purpose of this subsection, the term “regular-rate category” means any class of mail or kind of mailer, other than a class or kind referred to in section 2401(c).

(3) Rates of postage for a class of mail or kind of mailer under former section 4358(a) through (c) of this title shall be established so that postage on each mailing of such mail reflects its preferred status as compared to the postage for the most closely corresponding regular-rate category mailing.

(4)(A) Except as specified in subparagraph (B), rates of postage for a class of mail or kind of mailer under former section 4358 (d) or (e) of this title shall be established so that postage on each mailing of such mail shall be as nearly as practicable 5 percent lower than the postage for a corresponding regular-rate category mailing.

(B) With respect to the postage for the advertising portion of any mail matter under former section 4358 (d) or (e) of this title, the 5-percent discount specified in subparagraph (A) shall not apply if the advertising portion exceeds 10 percent of the publication involved.

(5) The rates for any advertising under former section 4358(f) of this title shall be equal to 75 percent of the rates for advertising contained in the most closely corresponding regular-rate category of mail.

(6) The rates for mail matter under former sections 4452 (b) and (c) of this title shall be established as follows:

(A) The estimated average revenue per piece to be received by the Postal Service from each subclass of mail under former sections 4452 (b) and (c) of this title shall be equal, as nearly as practicable, to 60 percent of the estimated average revenue per piece to be received from the most closely corresponding regular-rate subclass of mail.

(B) For purposes of subparagraph (A), the estimated average revenue per piece of each regular-rate subclass shall be calculated on the basis of expected volumes and mix of mail for such subclass at current rates in the test year of the proceeding.

(C) Rate differentials within each subclass of mail matter under former sections 4452 (b) and (c) shall reflect the policies of this title, including the factors set forth in section 3622(b) of this title.

(7) The rates for mail matter under former sections 4554 (b) and (c) of this title shall be established so that postage on each mailing of such mail shall be as nearly as practicable 5 percent lower than the postage for a corresponding regular-rate mailing.

(b)(1) For the purposes of this title, the term “periodical publications”, as used in former section 4351 of this title, includes (A) any catalog or other course listing, including mail announcements of legal texts which are part of post-bar admission education issued by any institution of higher education or by a nonprofit organization engaged in continuing legal education; and (B) any looseleaf page or report (including any index, instruction for filing, table, or sectional identifier which is an integral part

of such report) which is designed as part of a looseleaf reporting service concerning developments in the law or public policy.

(2) Any material described in paragraph (1) of this subsection shall qualify to be entered and mailed as second class mail in accordance with the applicable provisions of former section 4352 through former section 4357 of this title.

(3) For purposes of this subsection, the term “institution of higher education” has the meaning given it by section 101 of the Higher Education Act of 1965, and includes a nonprofit organization that coordinates a network of college-level courses that is sponsored primarily by nonprofit educational institutions for an older adult constituency.

(c) In the administration of this section, one conservation publication published by an agency of a State which is responsible for management and conservation of the fish or wildlife resources of such State shall be considered a publication of a qualified nonprofit organization which qualifies for rates of postage under former section 4358(d) of this title.

(d)(1) For purposes of this title, the term “agricultural”, as used in former sections 4358(j)(2), 4452(d), and 4554(b)(1)(B) of this title, includes the art or science of cultivating land, harvesting crops or marine resources, or raising of livestock.

(2) In the administration of this section, and for purposes of former sections 4358(j)(2), 4452(d), and 4554(b)(1)(B) of this title, agricultural organizations or associations shall include any organization or association which collects and disseminates information or materials relating to agricultural pursuits.

(e)(1) In the administration of this section, the rates for third-class mail matter mailed by a qualified political committee shall be the rates currently in effect under former section 4452 of this title for third-class mail matter mailed by a qualified nonprofit organization.

(2) For purposes of this subsection—

(A) the term “qualified political committee” means a national or State committee of a political party, the Republican and Democratic Senatorial Campaign Committees, the Democratic National Congressional Committee, and the National Republican Congressional Committee;

(B) the term “national committee” means the organization which, by virtue of the bylaws of a political party, is responsible for the day-to-day operation of such political party at the national level; and

(C) the term “State committee” means the organization which, by virtue of the bylaws of a political party, is responsible for the day-to-day operation of such political party at the State level.

(f) In the administration of this chapter, the rates for mail under former section 4358(g) of this title shall be established without regard to either the provisions of such former section 4358(g) or the provisions of this section.

(g)(1) In the administration of this section, the rates for mail under subsections (a), (b), and (c) of former section 4358 of this title shall not apply to an issue of a publication if the number of copies of such issue distributed within the

county of publication is less than the number equal to the sum of 50 percent of the total paid circulation of such issue plus one.

(2) Paragraph (1) of this subsection shall not apply to an issue of a publication if the total paid circulation of such issue is less than 10,000 copies.

(3) For purposes of this section and former section 4358(a) through (c) of this title, those copies of an issue of a publication entered within the county in which it is published, but distributed outside such county on postal carrier routes originating in the county of publication, shall be treated as if they were distributed within the county of publication.

(4)(A) In the case of an issue of a publication, any number of copies of which are mailed at the rates of postage for a class of mail or kind of mailer under former section 4358(a) through (c) of this title, any copies of such issue which are distributed outside the county of publication (excluding any copies subject to paragraph (3)) shall be subject to rates of postage provided for under this paragraph.

(B) The rates of postage applicable to mail under this paragraph shall be established in accordance with section 3622.

(C) This paragraph shall not apply with respect to an issue of a publication unless the total paid circulation of such issue outside the county of publication (not counting recipients of copies subject to paragraph (3)) is less than 5,000.

(h) In the administration of this section, the number of copies of a subscription publication mailed to nonsubscribers during a calendar year at rates under subsections (a), (b), and (c) of former section 4358 of this title may not exceed 10 percent of the number of copies of such publication mailed at such rates to subscribers.

[(i) Repealed. Pub. L. 103-123, title VII, § 704(a)(3)(A), Oct. 28, 1993, 107 Stat. 1269.]

(j)(1) In the administration of this section, the rates for mail under former section 4452(b) or 4452(c) of this title shall not apply to mail which advertises, promotes, offers, or, for a fee or consideration, recommends, describes, or announces the availability of—

(A) any credit, debit, or charge card, or similar financial instrument or account, provided by or through an arrangement with any person or organization not authorized to mail at the rates for mail under former section 4452(b) or 4452(c) of this title;

(B) any insurance policy, unless the organization which promotes the purchase of such policy is authorized to mail at the rates for mail under former section 4452(b) or 4452(c) of this title, the policy is designed for and primarily promoted to the members, donors, supporters, or beneficiaries of the organization, and the coverage provided by the policy is not generally otherwise commercially available;

(C) any travel arrangement, unless the organization which promotes the arrangement is authorized to mail at the rates for mail under former section 4452(b) or 4452(c) of this title, the travel contributes substantially (aside from the cultivation of members, donors, or supporters, or the acquisition of income or funds) to one or more of the purposes which constitutes the basis for the organization's au-

thorization to mail at such rates, and the arrangement is designed for and primarily promoted to the members, donors, supporters, or beneficiaries of the organization; or

(D) any product or service (other than any to which subparagraph (A), (B), or (C) relates), if—

(i) the sale of such product or the providing of such service is not substantially related (aside from the need, on the part of the organization promoting such product or service, for income or funds or the use it makes of the profits derived) to the exercise or performance by the organization of one or more of the purposes constituting the basis for the organization's authorization to mail at such rates; or

(ii) the mail matter involved is part of a cooperative mailing (as defined under regulations of the Postal Service) with any person or organization not authorized to mail at the rates for mail under former section 4452(b) or 4452(c) of this title;

except that—

(I) any determination under clause (i) that a product or service is not substantially related to a particular purpose shall be made under regulations which shall be prescribed by the Postal Service and which shall be consistent with standards established by the Internal Revenue Service and the courts with respect to subsections (a) and (c) of section 513 of the Internal Revenue Code of 1986; and

(II) clause (i) shall not apply if the product involved is a periodical publication described in subsection (m)(2) (including a subscription to receive any such publication); and

(III) clause (i) shall not apply to space advertising in mail matter that otherwise qualifies for rates under former section 4452(b) or 4452(c) of this title, and satisfies the content requirements established by the Postal Service for periodical publications: *Provided*, That such changes in law shall take effect immediately and shall stay in effect hereafter unless the Congress enacts legislation on this matter prior to October 1, 1995.

(2) Matter shall not be excluded from being mail at the rates for mail under former section 4452(b) or 4452(c) of this title, by an organization authorized to mail at those rates solely because—

(A) such matter contains, but is not primarily devoted to, acknowledgements of organizations or individuals who have made donations to the authorized organization; or

(B) such matter contains, but is not primarily devoted to, references to and a response card or other instructions for making inquiries concerning services or benefits available as a result of membership in the authorized organization: *Provided*, That advertising, promotional, or application materials specifically concerning such services or benefits are not included.

(3)(A) Upon request, an organization authorized to mail at the rates for mail under former

section 4452(b) or 4452(c) of this title shall furnish evidence to the Postal Service concerning the eligibility of any of its mail matter or mailings to be sent at those rates.

(B) The Postal Service shall establish procedures to carry out this paragraph, including procedures for mailer certification of compliance with the conditions specified in paragraph (1)(D) or subsection (m), as applicable, and verification of such compliance.

(k)(1) No person or organization shall mail, or cause to be mailed by contractual agreement or otherwise, at the rates for mail under former section 4452(b) or 4452(c) of this title, any matter to which those rates do not apply.

(2) The Postal Service may assess a postage deficiency in the amount of the unpaid postage against any person or organization which violates paragraph (1) of this subsection. This assessment shall be deemed the final decision of the Postal Service, unless the party against whom the deficiency is assessed appeals it in writing within thirty days to the postmaster of the office where the mailing was entered. Such an appeal shall be considered by an official designated by the Postal Service, other than the postmaster of the office where the mailing was entered, who shall issue a decision as soon as practicable. This decision shall be deemed final unless the party against whom the deficiency was assessed appeals it in writing within thirty days to a further reviewing official designated by the Postal Service, who shall issue the final decision on the matter.

(3) The Postal Service shall maintain procedures for the prompt collection of postage deficiencies arising from the violation of paragraph (1) of this subsection, and may in its discretion, follow the issuance of a final decision regarding a deficiency under paragraph (2) of this subsection deduct the amount of that deficiency incurred during the previous 12 months from any postage accounts or other monies of the violator in its possession.

(l) In the administration of this section, the term “advertising”, as used in former section 4358(j)(2) of this title, does not include the publisher’s own advertising in a publication published by the official highway or development agency of a State.

(m)(1) In the administration of this section, the rates for mail under former section 4452(b) or 4452(c) of this title shall not apply to mail consisting of products, unless such products—

(A) were received by the organization as gifts or contributions; or

(B) are low cost articles (as defined by section 513(h)(2) of the Internal Revenue Code of 1986).

(2) Paragraph (1) shall not apply with respect to a periodical publication of a qualified nonprofit organization.

(n) In the administration of this section, matter that satisfies the circulation standards for requester publications shall not be excluded from being mailed at the rates for mail under former section 4358 solely because such matter is designed primarily for free circulation or for circulation at nominal rates, or fails to meet the requirements of former section 4354(a)(5).

(Pub. L. 91-375, Aug. 12, 1970, 84 Stat. 762; Pub. L. 93-328, §1, June 30, 1974, 88 Stat. 287; Pub. L. 94-421, §11, Sept. 24, 1976, 90 Stat. 1311; Pub. L. 95-593, §11(c), Nov. 4, 1978, 92 Stat. 2538; Pub. L. 99-272, title XV, §§15102(b)(1), (c), 15104, 15105, Apr. 7, 1986, 100 Stat. 330, 331; Pub. L. 99-509, title VI, §6003(a), Oct. 21, 1986, 100 Stat. 1933; Pub. L. 101-509, title II, §§1(a), 3, Nov. 5, 1990, 104 Stat. 1397, 1399; Pub. L. 102-141, title II, Oct. 28, 1991, 105 Stat. 842, 843; Pub. L. 103-123, title VII, §§704(a)(1), (3)(A), 705(a)-(c), 708(e), Oct. 28, 1993, 107 Stat. 1267, 1269, 1271, 1273; Pub. L. 103-329, title VI, §639, Sept. 30, 1994, 108 Stat. 2432; Pub. L. 104-255, §2, Oct. 9, 1996, 110 Stat. 3169; Pub. L. 105-244, title I, §102(a)(12), Oct. 7, 1998, 112 Stat. 1620; Pub. L. 106-384, §§1(b)-(e), 2(b), Oct. 27, 2000, 114 Stat. 1460-1462; Pub. L. 109-435, title X, §1003, Dec. 20, 2006, 120 Stat. 3255.)

REFERENCES IN TEXT

Former sections 4351 to 4358, 4452, and 4554 of this title, referred to in text, mean those sections which were classified to former Title 39, The Postal Service, prior to the general revision and reenactment of Title 39 by Pub. L. 91-375, Aug. 12, 1970, 84 Stat. 719.

Section 101 of the Higher Education Act of 1965, referred to in subsec. (b)(3), is classified to section 1001 of Title 20, Education.

Section 513 of the Internal Revenue Code of 1986, referred to in subsecs. (j)(1)(D)(I) and (m)(1)(B), is classified to section 513 of Title 26, Internal Revenue Code.

The phrase “shall take effect immediately and shall stay in effect hereafter”, referred to in subsec. (j)(1)(D)(III), probably means that the provision shall take effect Sept. 30, 1994, the date of enactment of Pub. L. 103-329, which enacted subsec. (j)(1)(D)(III), and shall stay in effect after that date.

AMENDMENTS

2006—Subsec. (a)(1) to (3). Pub. L. 109-435, §1003(1), added pars. (1) to (3) and struck out former pars. (1) to (3). Prior to amendment, par. (1) required rates of postage for a class of mail or kind of mailer under former section 4358, 4452(b), 4452(c), 4554(b), or 4554(c) of this title to be established in accordance with the applicable provisions of this chapter, par. (2) defined “costs attributable”, “regular-rate category”, and “institutional-costs contribution”, and par. (3) required rates of postage for a class of mail or kind of mailer under former section 4358 of this title to be established in a manner such that the estimated revenues to be received by the Postal Service from such class of mail or kind of mailer were equal to certain calculated amounts.

Subsec. (g)(3), (4). Pub. L. 109-435, §1003(2), added pars. (3) and (4).

Subsec. (n). Pub. L. 109-435, §1003(3), added subsec. (n). 2000—Subsec. (a)(1). Pub. L. 106-384, §2(b), substituted “4554(b), or 4554(c)” for “4454(b), or 4454(c)”.

Subsec. (a)(3)(A). Pub. L. 106-384, §1(b), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: “Except as provided in paragraph (4) or (5), rates of postage for a class of mail or kind of mailer under former section 4358, 4452(b), 4452(c), 4554(b), or 4554(c) of this title shall be established in a manner such that the estimated revenues to be received by the Postal Service from such class of mail or kind of mailer shall be equal to the sum of—

“(i) the estimated costs attributable to such class of mail or kind of mailer; and

“(ii) the product derived by multiplying the estimated costs referred to in clause (i) by the applicable percentage under subparagraph (B).”

Subsec. (a)(4). Pub. L. 106-384, §1(c), amended par. (4) generally. Prior to amendment, par. (4) read as follows: “The rates for the advertising portion of any mail matter under former section 4358(d) or 4358(e) of this title

shall be equal to the rates for the advertising portion of the most closely corresponding regular-rate category of mail, except that if the advertising portion does not exceed 10 percent of the issue of the publication involved, the advertising portion shall be subject to the same rates as apply to the nonadvertising portion."

Subsec. (a)(6). Pub. L. 106-384, §1(d), added par. (6).

Subsec. (a)(7). Pub. L. 106-384, §1(e), added par. (7).

1998—Subsec. (b)(3). Pub. L. 105-244 substituted "section 101" for "section 1201(a)" and struck out "(20 U.S.C. 1141(a))" after "Act of 1965".

1996—Subsec. (b)(3). Pub. L. 104-255 inserted before period "and includes a nonprofit organization that coordinates a network of college-level courses that is sponsored primarily by nonprofit educational institutions for an older adult constituency".

1994—Subsec. (j)(1)(D)(III). Pub. L. 103-329 added cl. (III).

1993—Subsec. (a). Pub. L. 103-123, §704(a)(1), amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows:

"(1) Except as provided in paragraph (2) of this subsection, rates of postage for a class of mail or kind of mailer under former section 4358, 4452(b), 4452(c), 4554(b), or 4554(c) of this title shall be established in accordance with applicable provisions of this chapter.

"(2) Rates of postage for a class of mail or kind of mailer referred to in paragraph (1) of this subsection shall be established in accordance with the requirement that the direct and indirect postal costs attributable to such class of mail or kind of mailer (excluding any other costs of the Postal Service) shall be borne by such class of mail or kind of mailer, as the case may be: *Provided, however*, That with respect to mail under former section 4452(b) and 4452(c) of this title the preceding limitation shall apply only to rates of postage for letter shaped pieces, as such pieces are defined in the associated classification and rate schedules."

Subsec. (i). Pub. L. 103-123, §704(a)(3)(A), struck out subsec. (i) which defined "reduced-rate category" and "regular-rate category" and provided method for determining costs recovered by revenues plus appropriations for reduced-rate categories and for the purpose of distinguishing costs recovered from regular-rate categories and reduced-rate categories and determining appropriation requests relating to reduced-rate categories.

Subsec. (j)(1)(D). Pub. L. 103-123, §705(a), added subpar. (D).

Subsec. (j)(3). Pub. L. 103-123, §705(c), designated existing provisions as subpar. (A) and added subpar. (B).

Subsec. (k), (l). Pub. L. 103-123, §708(e), redesignated subsec. (k), defining "advertising", as (l).

Subsec. (m). Pub. L. 103-123, §705(b), added subsec. (m).

1991—Subsec. (a)(2). Pub. L. 102-141 amended par. (2) generally. Prior to amendment, par. (2) read as follows: "Rates of postage for a class of mail or kind of mailer referred to in paragraph (1) of this subsection shall be established in accordance with the requirement that the direct and indirect postal costs attributable to such class of mail or kind of mailer (excluding any other costs of the Postal Service) shall be borne by such class of mail or kind of mailer, as the case may be."

Subsec. (i)(2). Pub. L. 102-141 inserted "Subject to the requirements of section 2401(c) of this title and paragraph (a)(2) of this section with respect to mail under former sections 4452(b) and 4452(c) of this title," before "This subsection".

1990—Subsec. (j). Pub. L. 101-509, §1(a), added subsec. (j).

Subsec. (k). Pub. L. 101-509, §3, added subsec. (k) defining "advertising".

Pub. L. 101-509, §1(a), added subsec. (k) relating to mailing of matter at inapplicable rates.

1986—Subsec. (a). Pub. L. 99-272, §15102(b)(1), amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: "If the rates of postage for any class of mail or kind of mailer under former sections 4358, 4359,

4421, 4422, 4452, or 4554 of this title, as such rates existed on the effective date of this subchapter, are, on the effective date of the first rate decision under this subchapter affecting that class or kind, less than the rates established by such decision, a separate rate schedule shall be adopted for that class or kind effective each time rates are established or changed under this subchapter, with annual increases as nearly equal as practicable, so that—

"(1) the revenues received from rates for mail under former sections 4358, 4452(b) and (c), 4554(b) and (c) shall not, on and after the first day of the sixteenth year following the effective date of the first rate decision applicable to that class or kind, exceed the direct and indirect postal costs attributable to mail of such class or kind (excluding all other costs of the Postal Service);

"(2) the rates for mail under former sections 4359, 4421, 4422, and 4554(a) shall be equal, on and after the first day of the eighth year following the effective date of the first rate decision applicable to that class or kind, to the rates that would have been in effect for such mail if this subparagraph had not been enacted; and

"(3) the rates for mail under former section 4452(a) shall be equal, on and after the first day of the fifth year following the effective date of the first rate decision applicable to that class or kind, to the rates that would have been in effect for such mail if this subparagraph had not been enacted.

No person who would have been entitled to mail matter under former section 4359 of this title shall mail such matter at the rates provided under this subsection unless he files annually with the Postal Service a written request for permission to mail matter at such rates."

Subsec. (f). Pub. L. 99-272, §15102(c), added subsec. (f).

Subsec. (g). Pub. L. 99-272, §15104, added subsec. (g).

Subsec. (h). Pub. L. 99-272, §15105, added subsec. (h).

Subsec. (i). Pub. L. 99-509 added subsec. (i).

1978—Subsec. (e). Pub. L. 95-593 added subsec. (e).

1976—Pub. L. 94-421 designated existing provisions as subsec. (a) and added subsecs. (b) to (d).

1974—Pub. L. 93-328 substituted "sixteenth" for "tenth" year in subpar. (1), substituted "under former sections" for "under sections", "eighth" for "fifth" year, and "subparagraph" for "subsection" and struck out reference to section "4452(a)" after "4422," in subpar. (2), and added subpar. (3).

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105-244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105-244, see section 3 of Pub. L. 105-244, set out as a note under section 1001 of Title 20, Education.

EFFECTIVE DATE OF 1993 AMENDMENT

Pub. L. 103-123, title VII, §704(c)(1), Oct. 28, 1993, 107 Stat. 1270, provided that: "The amendments made by subsection (a) [enacting section 3642 of this title and amending this section and section 3627 of this title] shall apply with respect to rates for mail sent after September 30, 1993."

Pub. L. 103-123, title VII, §705(d), Oct. 28, 1993, 107 Stat. 1272, provided that: "The amendments made by this section [amending this section] shall apply with respect to mail sent, and the rates for mail sent, after December 31, 1993."

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by section 1(a) of Pub. L. 101-509 effective 90 days after Nov. 5, 1990, see section 1(c) of Pub. L. 101-509, set out as a note under section 2401 of this title.

EFFECTIVE DATE OF 1986 AMENDMENTS

Pub. L. 99-509, title VI, §6003(c), Oct. 21, 1986, 100 Stat. 1933, provided that: "The amendments made by this section [amending this section and section 2401 of this title] shall take effect on January 1, 1989, or on the ef-

fective date of the next general change in rates and fees under sections 3622 and 3625 of title 39, United States Code [Apr. 3, 1988, see 53 F.R. 10014], whichever is sooner.”

Pub. L. 99-272, title XV, §15102(b)(2), Apr. 7, 1986, 100 Stat. 330, provided that: “The amendment made by this subsection [amending this section] shall apply with respect to rates of postage taking effect after December 31, 1985.”

RELIEF OF CERTAIN PERIODICAL PUBLICATIONS

Pub. L. 104-52, title V, §527, Nov. 19, 1995, 109 Stat. 496, provided that: “For mail classification purposes under section 3626 of title 39, United States Code, and any regulations of the United States Postal Service for the administration of that section, a weekly second-class periodical publication which—

“(i) is eligible to publish legal notices under any applicable laws of the State where it is published;
 “(ii) is eligible to be mailed at the rates for mail under former subsection 4358(a), (b), and (c) of title 39, United States Code, as limited by current subsection 3626(g) of that title; and
 “(iii) the pages of which were customarily secured by 2 staples before March 19, 1989;
 shall not be considered to be a bound publication solely because its pages continue to be secured by 2 staples after that date.”

FORBEARANCE REGARDING CERTAIN POSTAGE DEFICIENCIES

Pub. L. 101-509, title II, §2, Nov. 5, 1990, 104 Stat. 1398, provided that:

“(a) IN GENERAL.—The United States Postal Service may forbear from the collection of any postage deficiency assessed against an organization authorized to mail at the rates for mail under former section 4452(b) or 4452(c) of title 39, United States Code, if the assessment of that deficiency arises from a violation of the cooperative mailing regulations of the Postal Service set forth at section 625.5 of the Domestic Mail Manual, and the Postal Service has made no determination that the organization knowingly or willfully violated such regulations. If any organizations authorized to mail at the rates for mail under former section 4452(b) or 4452(c) of title 39, United States Code, has paid on its own behalf all or part of a postage deficiency which the Postal Service would forbear from collecting under this section, the Postal Service may refund to that organization the amount which it has paid.

“(b) EFFECTIVE DATE AND APPLICABILITY.—The provisions of this section shall become effective on the date of enactment of this Act [Nov. 5, 1990], and shall apply to mailings which were sent on or between July 1, 1986, and the effective date of this section.”

CONSTRUCTION RESPECTING POSTAGE RATES REDUCTION UNAUTHORIZED

Pub. L. 93-328, §2, June 30, 1974, 88 Stat. 288, provided that: “Nothing in section 1 of this Act [amending this section] shall be construed to authorize a reduction in any rate of postage in effect and being paid on the date of enactment of this Act [June 30, 1974].”

§ 3627. Adjusting free rates

If Congress fails to appropriate an amount authorized under section 2401(c) of this title for any class of mail sent free of postage under section 3217 or 3403-3406¹ the rate for that class may be adjusted in accordance with the provisions of this subchapter so that the increased revenues received from the users of such class will equal the amount for that class that the Congress was to appropriate.

(Pub. L. 91-375, Aug. 12, 1970, 84 Stat. 763; Pub. L. 95-593, §11(b), Nov. 4, 1978, 92 Stat. 2538; Pub. L.

99-410, title II, §201(b)(3), Aug. 28, 1986, 100 Stat. 928; Pub. L. 103-31, §8(h)(3), May 20, 1993, 107 Stat. 86; Pub. L. 103-123, title VII, §704(a)(3)(B)(i), Oct. 28, 1993, 107 Stat. 1269; Pub. L. 109-435, title X, §1010(g)(5), Dec. 20, 2006, 120 Stat. 3263.)

AMENDMENTS

2006—Pub. L. 109-435 inserted section catchline and struck out former catchline which read the same.

1993—Pub. L. 103-123 substituted “free rates” for “free and reduced rates” in section catchline and “sent free of postage under section 3217 or 3403-3406” for “sent at a free or reduced rate under section 3217, 3403-3406, 3626, or 3629 of this title,” in text.

Pub. L. 103-31 substituted “3626, or 3629 of this title” for “or 3626 of this title.”

1986—Pub. L. 99-410 substituted “3406” for “3405” and struck out “under the Federal Voting Assistance Act of 1955, or under the Overseas Citizens Voting Rights Act of 1975” after “3626 of this title.”

1978—Pub. L. 95-593 inserted provisions relating to applicability of Overseas Citizens Voting Rights Act of 1975.

EFFECTIVE DATE OF 1993 AMENDMENTS

Amendment by Pub. L. 103-123 applicable with respect to rates for mail sent after Sept. 30, 1993, see section 704(c)(1) of Pub. L. 103-123, set out as a note under section 3626 of this title.

Amendment by Pub. L. 103-31 effective (1) with respect to a State that, on May 20, 1993, has a provision in the constitution of the State that would preclude compliance with section 1973gg et seq. of Title 42, The Public Health and Welfare, unless the State maintained separate Federal and State official lists of eligible voters, on the later of Jan. 1, 1996, or the date that is 120 days after the date by which, under the constitution of the State as in effect on May 20, 1993, it would be legally possible to adopt and place into effect any amendments to the constitution of the State that are necessary to permit compliance with section 1973gg et seq. of Title 42 without requiring a special election, and (2) with respect to a State not described above, on Jan. 1, 1995, see section 13 of Pub. L. 103-31, set out as an Effective Date note under section 1973gg of Title 42.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-410 applicable with respect to elections taking place after Dec. 31, 1987, see section 204 of Pub. L. 99-410, set out as an Effective Date note under section 1973ff of Title 42, The Public Health and Welfare.

[§ 3628. Repealed. Pub. L. 109-435, title II, § 201(b), Dec. 20, 2006, 120 Stat. 3205]

Section, Pub. L. 91-375, Aug. 12, 1970, 84 Stat. 763; Pub. L. 98-620, title IV, §402(37), Nov. 8, 1984, 98 Stat. 3360, related to appellate review of a decision of the Board of Governors to approve, allow under protest, reject, or modify a recommended decision of the Postal Rate Commission.

§ 3629. Reduced rates for voter registration purposes

The Postal Service shall make available to a State or local voting registration official the rate for any class of mail that is available to a qualified nonprofit organization under section 3626 for the purpose of making a mailing that the official certifies is required or authorized by the National Voter Registration Act of 1993.

(Added Pub. L. 103-31, §8(h)(1), May 20, 1993, 107 Stat. 86.)

REFERENCES IN TEXT

The National Voter Registration Act of 1993, referred to in text, is Pub. L. 103-31, May 20, 1993, 107 Stat. 77,

¹ So in original. Probably should be followed by “of this title.”

as amended, which is classified principally to subchapter I-H (§1973gg et seq.) of chapter 20 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 1971 of Title 42 and Tables.

EFFECTIVE DATE

Section effective (1) with respect to a State that, on May 20, 1993, has a provision in the constitution of the State that would preclude compliance with section 1973gg et seq. of Title 42, The Public Health and Welfare, unless the State maintained separate Federal and State official lists of eligible voters, on the later of Jan. 1, 1996, or the date that is 120 days after the date by which, under the constitution of the State as in effect on May 20, 1993, it would be legally possible to adopt and place into effect any amendments to the constitution of the State that are necessary to permit compliance with section 1973gg et seq. of Title 42 without requiring a special election, and (2) with respect to a State not described above, on Jan. 1, 1995, see section 13 of Pub. L. 103-31, set out as a note under section 1973gg of Title 42.

SUBCHAPTER II—PROVISIONS RELATING TO COMPETITIVE PRODUCTS

PRIOR PROVISIONS

A prior subchapter II was redesignated subchapter I of this chapter.

§ 3631. Applicability; definitions and updates

(a) APPLICABILITY.—This subchapter shall apply with respect to—

- (1) priority mail;
- (2) expedited mail;
- (3) bulk parcel post;
- (4) bulk international mail; and
- (5) mailgrams;

subject to subsection (d) and any changes the Postal Regulatory Commission may make under section 3642.

(b) DEFINITION.—For purposes of this subchapter, the term “costs attributable”, as used with respect to a product, means the direct and indirect postal costs attributable to such product through reliably identified causal relationships.

(c) RULE OF CONSTRUCTION.—Mail matter referred to in subsection (a) shall, for purposes of this subchapter, be considered to have the meaning given to such mail matter under the mail classification schedule.

(Added Pub. L. 109-435, title II, §202, Dec. 20, 2006, 120 Stat. 3205.)

§ 3632. Action of the Governors

(a) AUTHORITY TO ESTABLISH RATES AND CLASSES.—The Governors, with the concurrence of a majority of all of the Governors then holding office, shall establish rates and classes for products in the competitive category of mail in accordance with the requirements of this subchapter and regulations promulgated under section 3633.

(b) PROCEDURES.—

(1) IN GENERAL.—Rates and classes shall be established in writing, complete with a statement of explanation and justification, and the date as of which each such rate or class takes effect.

(2) RATES OR CLASSES OF GENERAL APPLICABILITY.—In the case of rates or classes of gen-

eral applicability in the Nation as a whole or in any substantial region of the Nation, the Governors shall cause each rate and class decision under this section and the record of the Governors' proceedings in connection with such decision to be published in the Federal Register at least 30 days before the effective date of any new rates or classes.

(3) RATES OR CLASSES NOT OF GENERAL APPLICABILITY.—In the case of rates or classes not of general applicability in the Nation as a whole or in any substantial region of the Nation, the Governors shall cause each rate and class decision under this section and the record of the proceedings in connection with such decision to be filed with the Postal Regulatory Commission by such date before the effective date of any new rates or classes as the Governors consider appropriate, but in no case less than 15 days.

(4) CRITERIA.—As part of the regulations required under section 3633, the Postal Regulatory Commission shall establish criteria for determining when a rate or class established under this subchapter is or is not of general applicability in the Nation as a whole or in any substantial region of the Nation.

(c) TRANSITION RULE.—Until regulations under section 3633 first take effect, rates and classes for competitive products shall remain subject to modification in accordance with the provisions of this chapter and section 407, as such provisions were as last in effect before the date of enactment of this section.

(Added Pub. L. 109-435, title II, §202, Dec. 20, 2006, 120 Stat. 3206.)

REFERENCES IN TEXT

The date of enactment of this section, referred to in subsec. (c), is the date of enactment of Pub. L. 109-435, which was approved Dec. 20, 2006.

§ 3633. Provisions applicable to rates for competitive products

(a) IN GENERAL.—The Postal Regulatory Commission shall, within 18 months after the date of enactment of this section, promulgate (and may from time to time thereafter revise) regulations to—

- (1) prohibit the subsidization of competitive products by market-dominant products;
- (2) ensure that each competitive product covers its costs attributable; and
- (3) ensure that all competitive products collectively cover what the Commission determines to be an appropriate share of the institutional costs of the Postal Service.

(b) REVIEW OF MINIMUM CONTRIBUTION.—Five years after the date of enactment of this section, and every 5 years thereafter, the Postal Regulatory Commission shall conduct a review to determine whether the institutional costs contribution requirement under subsection (a)(3) should be retained in its current form, modified, or eliminated. In making its determination, the Commission shall consider all relevant circumstances, including the prevailing competitive conditions in the market, and the degree to which any costs are uniquely or disproportionately associated with any competitive products.

(Added Pub. L. 109-435, title II, § 202, Dec. 20, 2006, 120 Stat. 3206.)

REFERENCES IN TEXT

The date of enactment of this section, referred to in text, is the date of enactment of Pub. L. 109-435, which was approved Dec. 20, 2006.

STUDY ON EQUAL APPLICATION OF LAWS TO COMPETITIVE PRODUCTS

Pub. L. 109-435, title VII, § 703, Dec. 20, 2006, 120 Stat. 3244, provided that:

“(a) IN GENERAL.—The Federal Trade Commission shall prepare and submit to the President and Congress, and to the Postal Regulatory Commission, within 1 year after the date of enactment of this Act [Dec. 20, 2006], a comprehensive report identifying Federal and State laws that apply differently to the United States Postal Service with respect to the competitive category of mail (within the meaning of section 102 of title 39, United States Code, as amended by section 101) and to private companies providing similar products.

“(b) RECOMMENDATIONS.—The Federal Trade Commission shall include such recommendations as it considers appropriate for bringing such legal differences to an end, and in the interim, to account under section 3633 of title 39, United States Code (as added by this Act), for the net economic effects provided by those laws.

“(c) CONSULTATION.—In preparing its report, the Federal Trade Commission shall consult with the United States Postal Service, the Postal Regulatory Commission, other Federal agencies, mailers, private companies that provide delivery services, and the general public, and shall append to such report any written comments received under this subsection.

“(d) COMPETITIVE PRODUCT REGULATION.—The Postal Regulatory Commission shall take into account the recommendations of the Federal Trade Commission, and subsequent events that affect the continuing validity of the estimate of the net economic effect, in promulgating or revising the regulations required under section 3633 of title 39, United States Code.”

§ 3634. Assumed Federal income tax on competitive products income

(a) DEFINITIONS.—For purposes of this section—

(1) the term “assumed Federal income tax on competitive products income” means the net income tax that would be imposed by chapter 1 of the Internal Revenue Code of 1986 on the Postal Service’s assumed taxable income from competitive products for the year; and

(2) the term “assumed taxable income from competitive products”, with respect to a year, refers to the amount representing what would be the taxable income of a corporation under the Internal Revenue Code of 1986 for the year, if—

(A) the only activities of such corporation were the activities of the Postal Service allocable under section 2011(h) to competitive products; and

(B) the only assets held by such corporation were the assets of the Postal Service allocable under section 2011(h) to such activities.

(b) COMPUTATION AND TRANSFER REQUIREMENTS.—The Postal Service shall, for each year beginning with the year in which occurs the deadline for the Postal Service’s first report to the Postal Regulatory Commission under section 3652(a)—

(1) compute its assumed Federal income tax on competitive products income for such year; and

(2) transfer from the Competitive Products Fund to the Postal Service Fund the amount of that assumed tax.

(c) DEADLINE FOR TRANSFERS.—Any transfer required to be made under this section for a year shall be due on or before the January 15th next occurring after the close of such year.

(Added Pub. L. 109-435, title IV, § 402, Dec. 20, 2006, 120 Stat. 3226.)

REFERENCES IN TEXT

The Internal Revenue Code of 1986, referred to in subsec. (a), is classified to Title 26, Internal Revenue Code.

SUBCHAPTER III—PROVISIONS RELATING TO EXPERIMENTAL AND NEW PRODUCTS

AMENDMENTS

2006—Pub. L. 109-435, title II, § 203, Dec. 20, 2006, 120 Stat. 3207, substituted “PROVISIONS RELATING TO EXPERIMENTAL AND NEW PRODUCTS” for “TEMPORARY RATES AND CLASSES” in subchapter heading.

§ 3641. Market tests of experimental products

(a) AUTHORITY.—

(1) IN GENERAL.—The Postal Service may conduct market tests of experimental products in accordance with this section.

(2) PROVISIONS WAIVED.—A product shall not, while it is being tested under this section, be subject to the requirements of sections 3622, 3633, or 3642, or regulations promulgated under those sections.

(b) CONDITIONS.—A product may not be tested under this section unless it satisfies each of the following:

(1) SIGNIFICANTLY DIFFERENT PRODUCT.—The product is, from the viewpoint of the mail users, significantly different from all products offered by the Postal Service within the 2-year period preceding the start of the test.

(2) MARKET DISRUPTION.—The introduction or continued offering of the product will not create an unfair or otherwise inappropriate competitive advantage for the Postal Service or any mailer, particularly in regard to small business concerns (as defined under subsection (h)).

(3) CORRECT CATEGORIZATION.—The Postal Service identifies the product, for the purpose of a test under this section, as either market-dominant or competitive, consistent with the criteria under section 3642(b)(1). Costs and revenues attributable to a product identified as competitive shall be included in any determination under section 3633(3)¹ (relating to provisions applicable to competitive products collectively). Any test that solely affects products currently classified as competitive, or which provides services ancillary to only competitive products, shall be presumed to be in the competitive product category without regard to whether a similar ancillary product exists for market-dominant products.

(c) NOTICE.—

¹ So in original. Probably should be section “3633(a)(3)”.

(1) IN GENERAL.—At least 30 days before initiating a market test under this section, the Postal Service shall file with the Postal Regulatory Commission and publish in the Federal Register a notice—

(A) setting out the basis for the Postal Service's determination that the market test is covered by this section; and

(B) describing the nature and scope of the market test.

(2) SAFEGUARDS.—For a competitive experimental product, the provisions of section 504(g) shall be available with respect to any information required to be filed under paragraph (1) to the same extent and in the same manner as in the case of any matter described in section 504(g)(1). Nothing in paragraph (1) shall be considered to permit or require the publication of any information as to which confidential treatment is accorded under the preceding sentence (subject to the same exception as set forth in section 504(g)(3)).

(d) DURATION.—

(1) IN GENERAL.—A market test of a product under this section may be conducted over a period of not to exceed 24 months.

(2) EXTENSION AUTHORITY.—If necessary in order to determine the feasibility or desirability of a product being tested under this section, the Postal Regulatory Commission may, upon written application of the Postal Service (filed not later than 60 days before the date as of which the testing of such product would otherwise be scheduled to terminate under paragraph (1)), extend the testing of such product for not to exceed an additional 12 months.

(e) DOLLAR-AMOUNT LIMITATION.—

(1) IN GENERAL.—A product may only be tested under this section if the total revenues that are anticipated, or in fact received, by the Postal Service from such product do not exceed \$10,000,000 in any year, subject to paragraph (2) and subsection (g). In carrying out the preceding sentence, the Postal Regulatory Commission may limit the amount of revenues the Postal Service may obtain from any particular geographic market as necessary to prevent market disruption (as defined under subsection (b)(2)).

(2) EXEMPTION AUTHORITY.—The Postal Regulatory Commission may, upon written application of the Postal Service, exempt the market test from the limit in paragraph (1) if the total revenues that are anticipated, or in fact received, by the Postal Service from such product do not exceed \$50,000,000 in any year, subject to subsection (g). In reviewing an application under this paragraph, the Postal Regulatory Commission shall approve such application if it determines that—

(A) the product is likely to benefit the public and meet an expected demand;

(B) the product is likely to contribute to the financial stability of the Postal Service; and

(C) the product is not likely to result in unfair or otherwise inappropriate competition.

(f) CANCELLATION.—If the Postal Regulatory Commission at any time determines that a mar-

ket test under this section fails, with respect to any particular product, to meet 1 or more of the requirements of this section, it may order the cancellation of the test involved or take such other action as it considers appropriate. A determination under this subsection shall be made in accordance with such procedures as the Commission shall by regulation prescribe.

(g) ADJUSTMENT FOR INFLATION.—For purposes of each year following the year in which occurs the deadline for the Postal Service's first report to the Postal Regulatory Commission under section 3652(a), each dollar amount contained in this section shall be adjusted by the change in the Consumer Price Index for such year (as determined under regulations of the Commission).

(h) DEFINITION OF A SMALL BUSINESS CONCERN.—The criteria used in defining small business concerns or otherwise categorizing business concerns as small business concerns shall, for purposes of this section, be established by the Postal Regulatory Commission in conformance with the requirements of section 3 of the Small Business Act.

(i) EFFECTIVE DATE.—Market tests under this subchapter may be conducted in any year beginning with the first year in which occurs the deadline for the Postal Service's first report to the Postal Regulatory Commission under section 3652(a).

(Pub. L. 91-375, Aug. 12, 1970, 84 Stat. 763; Pub. L. 94-421, §6(a), Sept. 24, 1976, 90 Stat. 1306; Pub. L. 109-435, title II, §203, Dec. 20, 2006, 120 Stat. 3207.)

REFERENCES IN TEXT

Section 3 of the Small Business Act, referred to in subsec. (h), is classified to section 632 of Title 15, Commerce and Trade.

AMENDMENTS

2006—Pub. L. 109-435 amended section generally. Prior to amendment, section consisted of subsecs. (a) to (f) relating to temporary changes in rates and classes.

1976—Subsec. (a). Pub. L. 94-421 added subsec. (a). Former subsec. (a) redesignated (e) and amended.

Subsec. (b). Pub. L. 94-421 added subsec. (b). Former subsec. (b) redesignated (f).

Subsec. (c). Pub. L. 94-421 substituted provision limiting the temporary rate increase to an amount no greater than the permanent fee requested for that class or service, for provision which limited a temporary increase to the lesser of either the rate or fee requested or an amount more than one-third greater than the permanent fee in effect for that class or service at the time a permanent change is requested.

Subsec. (d). Pub. L. 94-421 added subsec. (d).

Subsec. (e). Pub. L. 94-421 redesignated former subsec. (a) as (e) and struck out reference to requests for decisions on change in the rates of postage or fees for postal service.

Subsec. (f). Pub. L. 94-421 redesignated former subsec. (b) as (f).

EFFECTIVE DATE

Section effective Jan. 20, 1971, pursuant to Resolution No. 71-10 of the Board of Governors. See section 15(a) of Pub. L. 91-375, set out as a note preceding section 101 of this title.

RATE CHANGE REQUEST MADE ON SEPTEMBER 18, 1975,
OR UNDER DOCKET NUMBER R76-1

Pub. L. 94-421, §6(b)(1), Sept. 24, 1976, 90 Stat. 1307, provided that: "The amendment made by subsection (a) of this section [amending this section] shall not apply

to any action or proceeding with respect to the recommended decision of the Postal Rate Commission [now Postal Regulatory Commission] relating to proposed changes in rates of postage and in fees for postal services requested on September 18, 1975, by the United States Postal Service in a request which bears, or which at any time has been included under, Postal Rate Commission Docket Number R76-1.”

APPLICABILITY OF FORMER PROVISIONS OF SECTION TO RATE CHANGE REQUEST MADE ON SEPTEMBER 18, 1975, UNDER DOCKET NUMBER R76-1

Pub. L. 94-421, §6(b)(2), Sept. 24, 1976, 90 Stat. 1307, provided that: “The provisions of section 3641 of title 39, United States Code, as such provisions were in effect on the day before the date of the enactment of this Act [Sept. 24, 1976], shall apply to any temporary rate or fee established by the Postal Service pursuant to its request to the Postal Rate Commission [now Postal Regulatory Commission], dated September 18, 1975, for a recommended decision, bearing Docket Number R76-1.”

§ 3642. New products and transfers of products between the market-dominant and competitive categories of mail

(a) IN GENERAL.—Upon request of the Postal Service or users of the mails, or upon its own initiative, the Postal Regulatory Commission may change the list of market-dominant products under section 3621 and the list of competitive products under section 3631 by adding new products to the lists, removing products from the lists, or transferring products between the lists.

(b) CRITERIA.—All determinations by the Postal Regulatory Commission under subsection (a) shall be made in accordance with the following criteria:

(1) The market-dominant category of products shall consist of each product in the sale of which the Postal Service exercises sufficient market power that it can effectively set the price of such product substantially above costs, raise prices significantly, decrease quality, or decrease output, without risk of losing a significant level of business to other firms offering similar products. The competitive category of products shall consist of all other products.

(2) EXCLUSION OF PRODUCTS COVERED BY POSTAL MONOPOLY.—A product covered by the postal monopoly shall not be subject to transfer under this section from the market-dominant category of mail. For purposes of the preceding sentence, the term “product covered by the postal monopoly” means any product the conveyance or transmission of which is reserved to the United States under section 1696 of title 18, subject to the same exception as set forth in the last sentence of section 409(e)(1).

(3) ADDITIONAL CONSIDERATIONS.—In making any decision under this section, due regard shall be given to—

(A) the availability and nature of enterprises in the private sector engaged in the delivery of the product involved;

(B) the views of those who use the product involved on the appropriateness of the proposed action; and

(C) the likely impact of the proposed action on small business concerns (within the meaning of section 3641(h)).

(c) TRANSFERS OF SUBCLASSES AND OTHER SUBORDINATE UNITS ALLOWABLE.—Nothing in this

title shall be considered to prevent transfers under this section from being made by reason of the fact that they would involve only some (but not all) of the subclasses or other subordinate units of the class of mail or type of postal service involved (without regard to satisfaction of minimum quantity requirements standing alone).

(d) NOTIFICATION AND PUBLICATION REQUIREMENTS.—

(1) NOTIFICATION REQUIREMENT.—The Postal Service shall, whenever it requests to add a product or transfer a product to a different category, file with the Postal Regulatory Commission and publish in the Federal Register a notice setting out the basis for its determination that the product satisfies the criteria under subsection (b) and, in the case of a request to add a product or transfer a product to the competitive category of mail, that the product meets the regulations promulgated by the Postal Regulatory Commission under section 3633. The provisions of section 504(g) shall be available with respect to any information required to be filed.

(2) PUBLICATION REQUIREMENT.—The Postal Regulatory Commission shall, whenever it changes the list of products in the market-dominant or competitive category of mail, prescribe new lists of products. The revised lists shall indicate how and when any previous lists (including the lists under sections 3621 and 3631) are superseded, and shall be published in the Federal Register.

(e) PROHIBITION.—Except as provided in section 3641, no product that involves the physical delivery of letters, printed matter, or packages may be offered by the Postal Service unless it has been assigned to the market-dominant or competitive category of mail (as appropriate) either—

(1) under this subchapter; or

(2) by or under any other provision of law.

(Added Pub. L. 103-123, title VII, §704(a)(2), Oct. 28, 1993, 107 Stat. 1268; amended Pub. L. 109-435, title II, §203, Dec. 20, 2006, 120 Stat. 3209.)

AMENDMENTS

2006—Pub. L. 109-435 amended section generally. Prior to amendment, section consisted of subsecs. (a) to (d), related to special authority relating to reduced-rate categories of mail.

EFFECTIVE DATE

Section applicable with respect to rates for mail sent after Sept. 30, 1993, see section 704(c)(1) of Pub. L. 103-123, set out as an Effective Date of 1993 Amendment note under section 3626 of this title.

SUBCHAPTER IV—REPORTING REQUIREMENTS AND RELATED PROVISIONS

PRIOR PROVISIONS

A prior subchapter IV was redesignated subchapter V of this chapter.

§ 3651. Annual reports by the Commission

(a) IN GENERAL.—The Postal Regulatory Commission shall submit an annual report to the President and the Congress concerning the operations of the Commission under this title, in-

cluding the extent to which regulations are achieving the objectives under sections 3622 and 3633, respectively.

(b) **ADDITIONAL INFORMATION.**—

(1) **IN GENERAL.**—In addition to the information required under subsection (a), each report under this section shall also include, with respect to the period covered by such report, an estimate of the costs incurred by the Postal Service in providing—

(A) postal services to areas of the Nation where, in the judgment of the Postal Regulatory Commission, the Postal Service either would not provide services at all or would not provide such services in accordance with the requirements of this title if the Postal Service were not required to provide prompt, reliable, and efficient services to patrons in all areas and all communities, including as required under the first sentence of section 101(b);

(B) free or reduced rates for postal services as required by this title; and

(C) other public services or activities which, in the judgment of the Postal Regulatory Commission, would not otherwise have been provided by the Postal Service but for the requirements of law.

(2) **BASIS FOR ESTIMATES.**—The Commission shall detail the basis for its estimates and the statutory requirements giving rise to the costs identified in each report under this section.

(c) **INFORMATION FROM POSTAL SERVICE.**—The Postal Service shall provide the Postal Regulatory Commission with such information as may, in the judgment of the Commission, be necessary in order for the Commission to prepare its reports under this section.

(Added Pub. L. 109-435, title II, §204(b), Dec. 20, 2006, 120 Stat. 3211.)

§ 3652. Annual reports to the Commission

(a) **COSTS, REVENUES, RATES, AND SERVICE.**—Except as provided in subsection (c), the Postal Service shall, no later than 90 days after the end of each year, prepare and submit to the Postal Regulatory Commission a report (together with such nonpublic annex to the report as the Commission may require under subsection (e))—

(1) which shall analyze costs, revenues, rates, and quality of service, using such methodologies as the Commission shall by regulation prescribe, and in sufficient detail to demonstrate that all products during such year complied with all applicable requirements of this title; and

(2) which shall, for each market-dominant product provided in such year, provide—

(A) product information, including mail volumes; and

(B) measures of the quality of service afforded by the Postal Service in connection with such product, including—

(i) the level of service (described in terms of speed of delivery and reliability) provided; and

(ii) the degree of customer satisfaction with the service provided.

The Inspector General shall regularly audit the data collection systems and procedures

utilized in collecting information and preparing such report (including any annex thereto and the information required under subsection (b)). The results of any such audit shall be submitted to the Postal Service and the Postal Regulatory Commission.

(b) **INFORMATION RELATING TO WORKSHARE DISCOUNTS.**—The Postal Service shall include, in each report under subsection (a), the following information with respect to each market-dominant product for which a workshare discount was in effect during the period covered by such report:

(1) The per-item cost avoided by the Postal Service by virtue of such discount.

(2) The percentage of such per-item cost avoided that the per-item workshare discount represents.

(3) The per-item contribution made to institutional costs.

(c) **MARKET TESTS.**—In carrying out subsections (a) and (b) with respect to experimental products offered through market tests under section 3641 in a year, the Postal Service shall—

(1) report data on the costs, revenues, and quality of service by market test, which may be reported in summary form; and

(2) report such data as the Postal Regulatory Commission requires.

(d) **SUPPORTING MATTER.**—The Postal Regulatory Commission shall have access, in accordance with such regulations as the Commission shall prescribe, to the working papers and any other supporting matter of the Postal Service and the Inspector General in connection with any information submitted under this section.

(e) **CONTENT AND FORM OF REPORTS.**—

(1) **IN GENERAL.**—The Postal Regulatory Commission shall, by regulation, prescribe the content and form of the public reports (and any nonpublic annex and supporting matter relating to the report) to be provided by the Postal Service under this section. In carrying out this subsection, the Commission shall give due consideration to—

(A) providing the public with timely, adequate information to assess the lawfulness of rates charged;

(B) avoiding unnecessary or unwarranted administrative effort and expense on the part of the Postal Service; and

(C) protecting the confidentiality of commercially sensitive information.

(2) **REVISED REQUIREMENTS.**—The Commission may, on its own motion or on request of an interested party, initiate proceedings (to be conducted in accordance with regulations that the Commission shall prescribe) to improve the quality, accuracy, or completeness of Postal Service data required by the Commission under this subsection whenever it shall appear that—

(A) the attribution of costs or revenues to products has become significantly inaccurate or can be significantly improved;

(B) the quality of service data has become significantly inaccurate or can be significantly improved; or

(C) such revisions are, in the judgment of the Commission, otherwise necessitated by the public interest.

(f) CONFIDENTIAL INFORMATION.—

(1) IN GENERAL.—If the Postal Service determines that any document or portion of a document, or other matter, which it provides to the Postal Regulatory Commission in a non-public annex under this section or under subsection (d) contains information which is described in section 410(c) of this title, or exempt from public disclosure under section 552(b) of title 5, the Postal Service shall, at the time of providing such matter to the Commission, notify the Commission of its determination, in writing, and describe with particularity the documents (or portions of documents) or other matter for which confidentiality is sought and the reasons therefor.

(2) TREATMENT.—Any information or other matter described in paragraph (1) to which the Commission gains access under this section shall be subject to paragraphs (2) and (3) of section 504(g) in the same way as if the Commission had received notification with respect to such matter under section 504(g)(1).

(g) OTHER REPORTS.—The Postal Service shall submit to the Postal Regulatory Commission, together with any other submission that the Postal Service is required to make under this section in a year, copies of its then most recent—

- (1) comprehensive statement under section 2401(e);
- (2) performance plan under section 2803; and
- (3) program performance reports under section 2804.

(Added Pub. L. 109-435, title II, §204(b), Dec. 20, 2006, 120 Stat. 3211.)

§ 3653. Annual determination of compliance

(a) OPPORTUNITY FOR PUBLIC COMMENT.—After receiving the reports required under section 3652 for any year, the Postal Regulatory Commission shall promptly provide an opportunity for comment on such reports by users of the mails, affected parties, and an officer of the Commission who shall be required to represent the interests of the general public.

(b) DETERMINATION OF COMPLIANCE OR NON-COMPLIANCE.—Not later than 90 days after receiving the submissions required under section 3652 with respect to a year, the Postal Regulatory Commission shall make a written determination as to—

- (1) whether any rates or fees in effect during such year (for products individually or collectively) were not in compliance with applicable provisions of this chapter (or regulations promulgated thereunder); or
- (2) whether any service standards in effect during such year were not met.

If, with respect to a year, no instance of non-compliance is found under this subsection to have occurred in such year, the written determination shall be to that effect.

(c) NONCOMPLIANCE WITH REGARD TO RATES OR SERVICES.—If, for a year, a timely written determination of noncompliance is made under subsection (b), the Postal Regulatory Commission shall take appropriate action in accordance with subsections (c) and (e) of section 3662 (as if a

complaint averring such noncompliance had been duly filed and found under such section to be justified).

(d) REVIEW OF PERFORMANCE GOALS.—The Postal Regulatory Commission shall also evaluate annually whether the Postal Service has met the goals established under sections 2803 and 2804, and may provide recommendations to the Postal Service related to the protection or promotion of public policy objectives set out in this title.

(e) REBUTTABLE PRESUMPTION.—A timely written determination described in the last sentence of subsection (b) shall, for purposes of any proceeding under section 3662, create a rebuttable presumption of compliance by the Postal Service (with regard to the matters described under paragraphs (1) and (2) of subsection (b)) during the year to which such determination relates.

(Added Pub. L. 109-435, title II, §204(b), Dec. 20, 2006, 120 Stat. 3213.)

§ 3654. Additional financial reporting

(a) ADDITIONAL FINANCIAL REPORTING.—

(1) IN GENERAL.—The Postal Service shall file with the Postal Regulatory Commission beginning with the first full fiscal year following the effective date of this section—

(A) within 40 days after the end of each fiscal quarter, a quarterly report containing the information required by the Securities and Exchange Commission to be included in quarterly reports under sections 13 and 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m, 78o(d)) on Form 10-Q, as such Form (or any successor form) may be revised from time to time;

(B) within 60 days after the end of each fiscal year, an annual report containing the information required by the Securities and Exchange Commission to be included in annual reports under such sections on Form 10-K, as such Form (or any successor form) may be revised from time to time; and

(C) periodic reports within the time frame and containing the information prescribed in Form 8-K of the Securities and Exchange Commission, as such Form (or any successor form) may be revised from time to time.

(2) REGISTRANT DEFINED.—For purposes of defining the reports required by paragraph (1), the Postal Service shall be deemed to be the “registrant” described in the Securities and Exchange Commission Forms, and references contained in such Forms to Securities and Exchange Commission regulations are incorporated herein by reference, as amended.

(3) INTERNAL CONTROL REPORT.—For purposes of defining the reports required by paragraph (1)(B), the Postal Service shall comply with the rules prescribed by the Securities and Exchange Commission implementing section 404 of the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7262), beginning with the annual report for fiscal year 2010.

(b) FINANCIAL REPORTING.—¹

(1) The reports required by subsection (a)(1)(B) shall include, with respect to the

¹ So in original. Probably should be capitalized.

Postal Service's pension and post-retirement health obligations—

(A) the funded status of the Postal Service's pension and postretirement health obligations;

(B) components of the net change in the fund balances and obligations and the nature and cause of any significant changes;

(C) components of net periodic costs;

(D) cost methods and assumptions underlying the relevant actuarial valuations;

(E) the effect of a one-percentage point increase in the assumed health care cost trend rate for each future year on the service and interest costs components of net periodic postretirement health cost and the accumulated obligation;

(F) actual contributions to and payments from the funds for the years presented and the estimated future contributions and payments for each of the following 5 years;

(G) the composition of plan assets reflected in the fund balances; and

(H) the assumed rate of return on fund balances and the actual rates of return for the years presented.

(2) The Office of Personnel Management shall provide the data listed under paragraph (1) to the Postal Service not later than 30 days after the end of each fiscal year.

(3)(A) Beginning with reports for the fiscal year 2010, for purposes of the reports required under subparagraphs (A) and (B) of subsection (a)(1), the Postal Service shall include segment reporting.

(B) The Postal Service shall determine the appropriate segment reporting under subparagraph (A) after consultation with the Postal Regulatory Commission.

(c) TREATMENT.—For purposes of the reports required by subsection (a)(1)(B), the Postal Service shall obtain an opinion from an independent auditor on whether the information listed in subsection (b) is fairly stated in all material respects, either in relation to the basic financial statements as a whole or on a stand-alone basis.

(d) SUPPORTING MATTER.—The Postal Regulatory Commission shall have access to the audit documentation and any other supporting matter of the Postal Service and its independent auditor in connection with any information submitted under this section.

(e) REVISED REQUIREMENTS.—The Postal Regulatory Commission may, on its own motion or on request of an interested party, initiate proceedings (to be conducted in accordance with regulations that the Commission shall prescribe) to improve the quality, accuracy, or completeness of Postal Service data required under this section whenever it shall appear that—

(1) the data have become significantly inaccurate or can be significantly improved; or

(2) those revisions are, in the judgment of the Commission, otherwise necessitated by the public interest.

(f) CONFIDENTIAL INFORMATION.—

(1) IN GENERAL.—If the Postal Service determines that any document or portion of a document, or other matter, which it provides to

the Postal Regulatory Commission in a non-public annex under this section or pursuant to subsection (d) contains information which is described in section 410(c) of this title, or exempt from public disclosure under section 552(b) of title 5, the Postal Service shall, at the time of providing such matter to the Commission, notify the Commission of its determination, in writing, and describe with particularity the documents (or portions of documents) or other matter for which confidentiality is sought and the reasons therefor.

(2) TREATMENT.—Any information or other matter described in paragraph (1) to which the Commission gains access under this section shall be subject to paragraphs (2) and (3) of section 504(g) in the same way as if the Commission had received notification with respect to such matter under section 504(g)(1).

(Added Pub. L. 109-435, title II, §204(b), Dec. 20, 2006, 120 Stat. 3214.)

REFERENCES IN TEXT

The effective date of this section, referred to in subsec. (a)(1), is the date of enactment of Pub. L. 109-435, which enacted this section and was approved Dec. 20, 2006.

SUBCHAPTER V—POSTAL SERVICES, COMPLAINTS, AND JUDICIAL REVIEW

PRIOR PROVISIONS

A prior subchapter V was redesignated subchapter VI of this chapter.

AMENDMENTS

2006—Pub. L. 109-435, title II, §204(a)(1), Dec. 20, 2006, 120 Stat. 3210, redesignated subchapter IV of this chapter as this subchapter and substituted “POSTAL SERVICES, COMPLAINTS, AND JUDICIAL REVIEW” for “POSTAL SERVICES AND COMPLAINTS” in subchapter heading.

§ 3661. Postal services

(a) The Postal Service shall develop and promote adequate and efficient postal services.

(b) When the Postal Service determines that there should be a change in the nature of postal services which will generally affect service on a nationwide or substantially nationwide basis, it shall submit a proposal, within a reasonable time prior to the effective date of such proposal, to the Postal Regulatory Commission requesting an advisory opinion on the change.

(c) The Commission shall not issue its opinion on any proposal until an opportunity for hearing on the record under sections 556 and 557 of title 5 has been accorded to the Postal Service, users of the mail, and an officer of the Commission who shall be required to represent the interests of the general public. The opinion shall be in writing and shall include a certification by each Commissioner agreeing with the opinion that in his judgment the opinion conforms to the policies established under this title.

(Pub. L. 91-375, Aug. 12, 1970, 84 Stat. 764; Pub. L. 109-435, title VI, §604(f), Dec. 20, 2006, 120 Stat. 3242.)

AMENDMENTS

2006—Subsec. (b). Pub. L. 109-435 substituted “Postal Regulatory Commission” for “Postal Rate Commission”.

EFFECTIVE DATE

Subchapter effective July 1, 1971, pursuant to Resolution No. 71-9 of the Board of Governors. See section 15(a) of Pub. L. 91-375, set out as a note preceding section 101 of this title.

COMMISSION ON POSTAL SERVICE

Pub. L. 94-421, § 7, Sept. 24, 1976, 90 Stat. 1307, related to establishment, appointment and compensation of personnel and officers of a Commission on Postal Service and its duty to determine public service aspects of Postal Service and extent to which public service aspects of Postal Service are to be supported by appropriations, to study rate making, and to review service levels and electronic fund transfers and communication techniques, with appropriate recommendations to be transmitted to President and Congress on or before Mar. 15, 1977, 60 days after which transmittal it was to cease to exist.

§ 3662. Rate and service complaints

(a) IN GENERAL.—Any interested person (including an officer of the Postal Regulatory Commission representing the interests of the general public) who believes the Postal Service is not operating in conformance with the requirements of the provisions of sections 101(d), 401(2), 403(c), 404a, or 601, or this chapter (or regulations promulgated under any of those provisions) may lodge a complaint with the Postal Regulatory Commission in such form and manner as the Commission may prescribe.

(b) PROMPT RESPONSE REQUIRED.—

(1) IN GENERAL.—The Postal Regulatory Commission shall, within 90 days after receiving a complaint under subsection (a)—

(A) either—

(i) upon a finding that such complaint raises material issues of fact or law, begin proceedings on such complaint; or

(ii) issue an order dismissing the complaint; and

(B) with respect to any action taken under subparagraph (A)(i) or (ii), issue a written statement setting forth the bases of its determination.

(2) TREATMENT OF COMPLAINTS NOT TIMELY ACTED ON.—For purposes of section 3663, any complaint under subsection (a) on which the Commission fails to act in the time and manner required by paragraph (1) shall be treated in the same way as if it had been dismissed pursuant to an order issued by the Commission on the last day allowable for the issuance of such order under paragraph (1).

(c) ACTION REQUIRED IF COMPLAINT FOUND TO BE JUSTIFIED.—If the Postal Regulatory Commission finds the complaint to be justified, it shall order that the Postal Service take such action as the Commission considers appropriate in order to achieve compliance with the applicable requirements and to remedy the effects of any noncompliance (such as ordering unlawful rates to be adjusted to lawful levels, ordering the cancellation of market tests, ordering the Postal Service to discontinue providing loss-making products, or requiring the Postal Service to make up for revenue shortfalls in competitive products).

(d) AUTHORITY TO ORDER FINES IN CASES OF DELIBERATE NONCOMPLIANCE.—In addition, in

cases of deliberate noncompliance by the Postal Service with the requirements of this title, the Postal Regulatory Commission may order, based on the nature, circumstances, extent, and seriousness of the noncompliance, a fine (in the amount specified by the Commission in its order) for each incidence of noncompliance. Fines resulting from the provision of competitive products shall be paid from the Competitive Products Fund established in section 2011. All receipts from fines imposed under this subsection shall be deposited in the general fund of the Treasury of the United States.

(Added Pub. L. 109-435, title II, § 205, Dec. 20, 2006, 120 Stat. 3216.)

PRIOR PROVISIONS

A prior section 3662, Pub. L. 91-375, Aug. 12, 1970, 84 Stat. 764, related to rate and service complaints, prior to repeal by Pub. L. 109-435, title II, § 205, Dec. 20, 2006, 120 Stat. 3216.

§ 3663. Appellate review

A person, including the Postal Service, adversely affected or aggrieved by a final order or decision of the Postal Regulatory Commission may, within 30 days after such order or decision becomes final, institute proceedings for review thereof by filing a petition in the United States Court of Appeals for the District of Columbia. The court shall review the order or decision in accordance with section 706 of title 5, and chapter 158 and section 2112 of title 28, on the basis of the record before the Commission.

(Added Pub. L. 109-435, title II, § 205, Dec. 20, 2006, 120 Stat. 3217.)

PRIOR PROVISIONS

A prior section 3663, added Pub. L. 105-277, div. A, § 101(h) [title VI, § 648(a)], Oct. 21, 1998, 112 Stat. 2681-480, 2681-527, related to annual report on international services, prior to repeal by Pub. L. 109-435, title II, § 205, Dec. 20, 2006, 120 Stat. 3216.

§ 3664. Enforcement of orders

The several district courts have jurisdiction specifically to enforce, and to enjoin and restrain the Postal Service from violating, any order issued by the Postal Regulatory Commission.

(Added Pub. L. 109-435, title II, § 205, Dec. 20, 2006, 120 Stat. 3217.)

SUBCHAPTER VI—GENERAL

AMENDMENTS

2006—Pub. L. 109-435, title II, § 204(a)(2), Dec. 20, 2006, 120 Stat. 3210, redesignated subchapter V of this chapter as this subchapter.

§ 3681. Reimbursement

No mailer may be reimbursed for any amount paid under any rate or fee which, after such payment, is determined to have been unlawful after proceedings in accordance with the provisions of sections 3662 through 3664 of this title, or is superseded by a lower rate or fee established under subchapter II of this chapter.

(Pub. L. 91-375, Aug. 12, 1970, 84 Stat. 764; Pub. L. 109-435, title X, § 1010(a), Dec. 20, 2006, 120 Stat. 3261.)

AMENDMENTS

2006—Pub. L. 109-435 substituted “sections 3662 through 3664” for “section 3628”.

EFFECTIVE DATE

Subchapter effective Jan. 20, 1971, pursuant to Resolution No. 71-10 of the Board of Governors. See section 15(a) of Pub. L. 91-375, set out as a note preceding section 101 of this title.

§ 3682. Size and weight limits

The Postal Service may establish size and weight limitations for mail matter in the market-dominant category of mail consistent with regulations the Postal Regulatory Commission may prescribe under section 3622. The Postal Service may establish size and weight limitations for mail matter in the competitive category of mail consistent with its authority under section 3632.

(Pub. L. 91-375, Aug. 12, 1970, 84 Stat. 765; Pub. L. 96-70, title I, §1331(e)(4), Sept. 27, 1979, 93 Stat. 482; Pub. L. 97-242, §1(a), Aug. 24, 1982, 96 Stat. 300; Pub. L. 109-435, title X, §1010(b), Dec. 20, 2006, 120 Stat. 3261.)

AMENDMENTS

2006—Pub. L. 109-435 amended section generally. Prior to amendment, section read as follows: “The Postal Service may establish size and weight limitations for mail matter in the same manner as prescribed for changes in mail classification under subchapter II of this chapter.”

1982—Pub. L. 97-242 struck out subsecs. (a) and (b) and designation “(c)” before “The Postal Service” and in resulting undesignated paragraph substituted “mail matter” and “mail classification” for “letter mail” and “classification”, respectively. Former subsecs. (a) and (b) had provided that the maximum weight of mail other than letter mail was 40 pounds, that the maximum size was 78 inches in girth and length combined before July 1, 1971, and 84 inches in girth and length combined on and after July 1, 1971, and that the maximum size on mail, other than letter mail, was 100 inches in girth and length combined and the maximum weight was 70 pounds if the mail (1) was mailed at, or addressed for delivery at, other than first-class post offices or on rural or star routes, (2) contained baby fowl, live plants, trees, shrubs, or agricultural commodities but not the manufactured products of those commodities, (3) would have been entitled to be mailed under former section 4554 of this title, (4) was addressed to or mailed at any Armed Forces post office outside the 50 States, or (5) was addressed to or mailed in the Commonwealth of Puerto Rico, the States of Alaska and Hawaii, or a possession of the United States including the Trust Territory of the Pacific Islands.

1979—Subsec. (b)(5). Pub. L. 96-70 struck out “the Canal Zone and” after “United States including”.

EFFECTIVE DATE OF 1982 AMENDMENT

Pub. L. 97-242, §1(b), Aug. 24, 1982, 96 Stat. 300, provided that: “The size and weight limitations for other than letter mail established by subsections (a) and (b) of section 3682 of title 39, United States Code, as in effect on the day prior to the effective date of this section [Aug. 24, 1982], shall remain in effect until changed pursuant to section 3682 of such title, as amended, by subsection (a) of this section.”

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-70 effective Oct. 1, 1979, see section 3304 of Pub. L. 96-70, set out as an Effective Date note under section 3601 of Title 22, Foreign Relations and Intercourse.

§ 3683. Uniform rates for books; films; other materials

(a) Notwithstanding any other provision of this title, the rates of postage established for mail matter enumerated in former section 4554 of this title shall be uniform for such mail of the same weight, and shall not vary with the distance transported.

(b) The rates of postage under former section 4554(b)(1) of this title shall not be effective except with respect to mailings which—

(1) constitute materials specified in former section 4554(b)(2) of this title; and

(2) are sent between—

(A) an institution, organization, or association listed in subparagraph (A) or (B) of such former section 4554(b)(1) and any other such institution, organization, or association;

(B) an institution, organization, or association referred to in subparagraph (A) and any individual (other than an individual having a financial interest in the sale, promotion, or distribution of the materials involved);

(C) an institution, organization, or association referred to in subparagraph (A) and a qualified nonprofit organization (as defined in former section 4452(d) of this title) that is not such an institution, organization, or association; or

(D) an institution, organization, or association referred to in subparagraph (A) and a publisher, if such institution, organization, or association has placed an order to purchase such materials for delivery to such institution, organization, or association.

(Pub. L. 91-375, Aug. 12, 1970, 84 Stat. 765; Pub. L. 94-421, §12, Sept. 24, 1976, 90 Stat. 1312; Pub. L. 103-123, title VII, §706(a), Oct. 28, 1993, 107 Stat. 1272.)

REFERENCES IN TEXT

Former sections 4452 and 4554 of this title, referred to in text, mean sections 4452 and 4554 of former Title 39, The Postal Service, prior to the general revision and reenactment of Title 39 by Pub. L. 91-375, Aug. 12, 1970, 84 Stat. 719.

AMENDMENTS

1993—Subsec. (b). Pub. L. 103-123 amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: “The rates for mail matter specified in former section 4554(a)(1) or 4554(b)(2)(A) of this title, when mailed from a publisher or a distributor to a school, college, university, or library, shall be the rate currently in effect for such mail matter under the provisions of former section 4554(b)(1) of this title.”

1976—Pub. L. 94-421 designated existing provisions as subsec. (a) and added subsec. (b).

EFFECTIVE DATE OF 1993 AMENDMENT

Pub. L. 103-123, title VII, §706(b), Oct. 28, 1993, 107 Stat. 1272, provided that: “The amendment made by subsection (a) [amending this section] shall apply with respect to mail sent after September 30, 1993.”

§ 3684. Limitations

Except as provided in section 3627 of this title, no provision of this chapter shall be construed to give authority to the Governors to make any change in any provision of this title.

(Pub. L. 91-375, Aug. 12, 1970, 84 Stat. 765; Pub. L. 99-410, title II, § 201(b)(4), Aug. 28, 1986, 100 Stat. 929; Pub. L. 109-435, title X, § 1010(f), Dec. 20, 2006, 120 Stat. 3262.)

AMENDMENTS

2006—Pub. L. 109-435 substituted “of this title” for “of section 3682 or 3683 or chapter 30, 32, or 34 of this title”.

1986—Pub. L. 99-410 struck out “, or of the Federal Voting Assistance Act of 1955” after “or 34 of this title”.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-410 applicable with respect to elections taking place after Dec. 31, 1987, see section 204 of Pub. L. 99-410, set out as an Effective Date note under section 1973ff of Title 42, The Public Health and Welfare.

§ 3685. Filing of information relating to periodical publications

(a) Each owner of a publication having periodical publication mail privileges shall furnish to the Postal Service at least once a year, and shall publish in such publication once a year, information in such form and detail and at such time as the Postal Service may require with respect to—

- (1) the identity of the editor, managing editor, publishers, and owners;
- (2) the identity of the corporation and stockholders thereof, if the publication is owned by a corporation;
- (3) the identity of known bondholders, mortgagees, and other security holders;
- (4) the extent and nature of the circulation of the publication, including, but not limited to, the number of copies distributed, the methods of distribution, and the extent to which such circulation is paid in whole or in part; and
- (5) such other information as the Postal Service may deem necessary to determine whether the publication meets the standards for periodical publication mail privileges.

The Postal Service shall not require the names of persons owning less than 1 percent of the total amount of stocks, bonds, mortgages, or other securities.

(b) Each publication having such mail privileges shall furnish to the Postal Service information in such form and detail, and at such times, as the Postal Service requires to determine whether the publication continues to qualify for such privileges.

(c) The Postal Service shall make appropriate rules and regulations to carry out the purposes of this section, including provision for suspension or revocation of periodical publication mail privileges for failure to furnish the required information.

(Pub. L. 91-375, Aug. 12, 1970, 84 Stat. 765.)

§ 3686. Bonus authority

(a) IN GENERAL.—The Postal Service may establish 1 or more programs to provide bonuses or other rewards to officers and employees of the Postal Service in senior executive or equivalent positions to achieve the objectives of this chapter.

(b) LIMITATION ON TOTAL COMPENSATION.—

(1) IN GENERAL.—Under any such program, the Postal Service may award a bonus or other reward in excess of the limitation set forth in the last sentence of section 1003(a), if such program has been approved under paragraph (2). Any such award or bonus may not cause the total compensation of such officer or employee to exceed the total annual compensation payable to the Vice President under section 104 of title 3 as of the end of the calendar year in which the bonus or award is paid.

(2) APPROVAL PROCESS.—If the Postal Service wishes to have the authority, under any program described in subsection (a), to award bonuses or other rewards in excess of the limitation set forth in the last sentence of section 1003(a)—

(A) the Postal Service shall make an appropriate request to the Board of Governors of the Postal Service in such form and manner as the Board requires; and

(B) the Board of Governors shall approve any such request if the Board certifies, for the annual appraisal period involved, that the performance appraisal system for affected officers and employees of the Postal Service (as designed and applied) makes meaningful distinctions based on relative performance.

(3) REVOCATION AUTHORITY.—If the Board of Governors of the Postal Service finds that a performance appraisal system previously approved under paragraph (2)(B) does not (as designed and applied) make meaningful distinctions based on relative performance, the Board may revoke or suspend the authority of the Postal Service to continue a program approved under paragraph (2) until such time as appropriate corrective measures have, in the judgment of the Board, been taken.

(c) EXCEPTIONS FOR CRITICAL POSITIONS.—Notwithstanding any other provision of law, the Board of Governors may allow up to 12 officers or employees of the Postal Service in critical senior executive or equivalent positions to receive total compensation in an amount not to exceed 120 percent of the total annual compensation payable to the Vice President under section 104 of title 3 as of the end of the calendar year in which such payment is received. For each exception made under this subsection, the Board shall provide written notification to the Director of the Office of Personnel Management and the Congress within 30 days after the payment is made setting forth the name of the officer or employee involved, the critical nature of his or her duties and responsibilities, and the basis for determining that such payment is warranted.

(d) INFORMATION FOR INCLUSION IN COMPREHENSIVE STATEMENT.—Included in its comprehensive statement under section 2401(e) for any period shall be—

(1) the name of each person receiving a bonus or other payment during such period which would not have been allowable but for the provisions of subsection (b) or (c);

(2) the amount of the bonus or other payment; and

(3) the amount by which the limitation set forth in the last sentence of section 1003(a) was

exceeded as a result of such bonus or other payment.

(e) REGULATIONS.—The Board of Governors may prescribe regulations for the administration of this section.

(Added Pub. L. 109–435, title V, § 506, Dec. 20, 2006, 120 Stat. 3236.)

SUBCHAPTER VII—MODERN SERVICE STANDARDS

§ 3691. Establishment of modern service standards

(a) AUTHORITY GENERALLY.—Not later than 12 months after the date of enactment of this section, the Postal Service shall, in consultation with the Postal Regulatory Commission, by regulation establish (and may from time to time thereafter by regulation revise) a set of service standards for market-dominant products.

(b) OBJECTIVES.—

(1) IN GENERAL.—Such standards shall be designed to achieve the following objectives:

(A) To enhance the value of postal services to both senders and recipients.

(B) To preserve regular and effective access to postal services in all communities, including those in rural areas or where post offices are not self-sustaining.

(C) To reasonably assure Postal Service customers delivery reliability, speed and frequency consistent with reasonable rates and best business practices.

(D) To provide a system of objective external performance measurements for each market-dominant product as a basis for measurement of Postal Service performance.

(2) Implementation of performance measurements.—With respect to paragraph (1)(D), with the approval of the Postal Regulatory Commission an internal measurement system may be implemented instead of an external measurement system.

(c) FACTORS.—In establishing or revising such standards, the Postal Service shall take into account—

(1) the actual level of service that Postal Service customers receive under any service guidelines previously established by the Postal Service or service standards established under this section;

(2) the degree of customer satisfaction with Postal Service performance in the acceptance, processing and delivery of mail;

(3) the needs of Postal Service customers, including those with physical impairments;

(4) mail volume and revenues projected for future years;

(5) the projected growth in the number of addresses the Postal Service will be required to serve in future years;

(6) the current and projected future cost of serving Postal Service customers;

(7) the effect of changes in technology, demographics, and population distribution on the efficient and reliable operation of the postal delivery system; and

(8) the policies of this title and such other factors as the Postal Service determines appropriate.

(d) REVIEW.—The regulations promulgated pursuant to this section (and any revisions thereto), and any violations thereof, shall be subject to review upon complaint under sections 3662 and 3663.

(Added Pub. L. 109–435, title III, § 301, Dec. 20, 2006, 120 Stat. 3218.)

REFERENCES IN TEXT

The date of enactment of this section, referred to in subsec. (a), is the date of enactment of Pub. L. 109–435, which was approved Dec. 20, 2006.

POSTAL SERVICE PLAN

Pub. L. 109–435, title III, § 302, Dec. 20, 2006, 120 Stat. 3219, provided that:

“(a) IN GENERAL.—Within 6 months after the establishment of the service standards under section 3691 of title 39, United States Code, as added by this Act, the Postal Service shall, in consultation with the Postal Regulatory Commission, develop and submit to Congress a plan for meeting those standards.

“(b) CONTENTS.—The plan under this section shall—

“(1) establish performance goals;

“(2) describe any changes to the Postal Service’s processing, transportation, delivery, and retail networks necessary to allow the Postal Service to meet the performance goals;

“(3) describe any changes to planning and performance management documents previously submitted to Congress to reflect new performance goals; and

“(4) describe the long-term vision of the Postal Service for rationalizing its infrastructure and workforce, and how the Postal Service intends to implement that vision.

“(c) POSTAL FACILITIES.—

“(1) FINDINGS.—Congress finds that—

“(A) the Postal Service has more than 400 logistics facilities, separate from its post office network;

“(B) as noted by the President’s Commission on the United States Postal Service, the Postal Service has more facilities than it needs and the streamlining of this distribution network can pave the way for the potential consolidation of sorting facilities and the elimination of excess costs;

“(C) the Postal Service has always revised its distribution network to meet changing conditions and is best suited to address its operational needs; and

“(D) Congress strongly encourages the Postal Service to—

“(i) expeditiously move forward in its streamlining efforts; and

“(ii) keep unions, management associations, and local elected officials informed as an essential part of this effort and abide by any procedural requirements contained in the national bargaining agreements.

“(2) IN GENERAL.—The Postal Service plan shall include a description of—

“(A) the long-term vision of the Postal Service for rationalizing its infrastructure and workforce; and

“(B) how the Postal Service intends to implement that vision.

“(3) CONTENT OF FACILITIES PLAN.—The plan under this subsection shall include—

“(A) a strategy for how the Postal Service intends to rationalize the postal facilities network and remove excess processing capacity and space from the network, including estimated timeframes, criteria, and processes to be used for making changes to the facilities network, and the process for engaging policy makers and the public in related decisions;

“(B) a discussion of what impact any facility changes may have on the postal workforce and whether the Postal Service has sufficient flexibility to make needed workforce changes;

“(C) an identification of anticipated costs, cost savings, and other benefits associated with the infrastructure rationalization alternatives discussed in the plan; and

“(D) procedures that the Postal Service will use to—

“(i) provide adequate public notice to communities potentially affected by a proposed rationalization decision;

“(ii) make available information regarding any service changes in the affected communities, any other effects on customers, any effects on postal employees, and any cost savings;

“(iii) afford affected persons ample opportunity to provide input on the proposed decision; and

“(iv) take such comments into account in making a final decision.

“(4) ANNUAL REPORTS.—

“(A) IN GENERAL.—Not later than 90 days after the end of each fiscal year, the Postal Service shall prepare and submit a report to Congress on how postal decisions have impacted or will impact rationalization plans.

“(B) CONTENTS.—Each report under this paragraph shall include—

“(i) an account of actions taken during the preceding fiscal year to improve the efficiency and effectiveness of its processing, transportation, and distribution networks while preserving the timely delivery of postal services, including overall estimated costs and cost savings;

“(ii) an account of actions taken to identify any excess capacity within its processing, transportation, and distribution networks and implement savings through realignment or consolidation of facilities including overall estimated costs and cost savings;

“(iii) an estimate of how postal decisions related to mail changes, security, automation initiatives, worksharing, information technology systems, excess capacity, consolidating and closing facilities, and other areas will impact rationalization plans;

“(iv) identification of any statutory or regulatory obstacles that prevented or will prevent or hinder the Postal Service from taking action to realign or consolidate facilities; and

“(v) such additional topics and recommendations as the Postal Service considers appropriate.

“(5) EXISTING EFFORTS.—Effective on the date of enactment of this Act [Dec. 20, 2006], the Postal Service may not close or consolidate any processing or logistics facilities without using procedures for public notice and input consistent with those described under paragraph (3)(D).

“(d) ALTERNATE RETAIL OPTIONS.—The Postal Service plan shall include plans to expand and market retail access to postal services, in addition to post offices, including—

“(1) vending machines;

“(2) the Internet;

“(3) postage meters;

“(4) Stamps by Mail;

“(5) Postal Service employees on delivery routes;

“(6) retail facilities in which overhead costs are shared with private businesses and other government agencies;

“(7) postal kiosks; or

“(8) any other nonpost office access channel providing market retail access to postal services.

“(e) REEMPLOYMENT ASSISTANCE AND RETIREMENT BENEFITS.—The Postal Service plan shall include—

“(1) a comprehensive plan under which reemployment assistance shall be afforded to employees displaced as a result of automation of any of its functions, the closing and consolidation of any of its facilities, or such other reasons as the Postal Service may determine; and

“(2) a plan, developed in consultation with the Office of Personnel Management, to offer early retirement benefits.

“(f) CONTINUED AUTHORITY.—Nothing in this section shall be construed to prohibit the Postal Service from implementing any change to its processing, transportation, delivery, and retail networks under any authority granted to the Postal Service for those purposes.”

PART V—TRANSPORTATION OF MAIL

Chap.		Sec.
50.	General	5001
[52. Repealed]	5201
54.	Transportation of Mail by Air	5401
56.	Transportation of Mail by Vessel	5601

AMENDMENTS

2006—Pub. L. 109-435, title X, § 1002(c), Dec. 20, 2006, 120 Stat. 3255, struck out item relating to chapter 52 “Transportation of Mail by Surface Carrier”.

CHAPTER 50—GENERAL

Sec.	
5001.	Provisions for carrying mail.
5002.	Transportation of mail of adjoining countries through the United States.
5003.	Establishment of post roads.
5004.	Discontinuance of service on post roads.
5005.	Mail transportation.
5006.	Lien on compensation of contractor.
5007.	Free transportation of postal employees.

§ 5001. Provisions for carrying mail

The Postal Service shall provide for the transportation of mail in accordance with the policies established under section 101(e) and (f) of this title and the provisions of this chapter. Notwithstanding any other provision of this title, the Postal Service may make arrangements on a temporary basis for the transportation of mail when, as determined by the Postal Service, an emergency arises. Such arrangements shall terminate when the emergency ceases and the Postal Service is promptly able to secure transportation services under other provisions of this title.

(Pub. L. 91-375, Aug. 12, 1970, 84 Stat. 766.)

EFFECTIVE DATE

Chapter effective July 1, 1971, pursuant to Resolution No. 71-9 of the Board of Governors. See section 15(a) of Pub. L. 91-375, set out as a note preceding section 101 of this title.

§ 5002. Transportation of mail of adjoining countries through the United States

The Postal Service, with the consent of the President, may make arrangements to allow the mail of countries adjoining the United States to be transported over the territory of the United States from one point in that country to any other point therein, at the expense of the country to which the mail belongs, upon obtaining a like privilege for the transportation of United States mail through the country to which the privilege is granted.

(Pub. L. 91-375, Aug. 12, 1970, 84 Stat. 766.)

§ 5003. Establishment of post roads

The following are post roads:

(1) the waters of the United States, during the time the mail is carried thereon;